

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al., *
*
Plaintiffs, *
*
v. * 05-CV-0329 GKF-PJC
*
TYSON FOODS, INC., et al., *
*
Defendants. *

VIDEO DEPOSITION OF GERARD HUMMEL

ANSWERS AND DEPOSITION OF GERARD HUMMEL, produced as a witness at the instance of the Defendants Cargill, Inc. and Cargill Turkey Production, LLC, taken in the above-styled and -numbered cause on the 8th day of April, 2009, A.D., beginning at 8:30 a.m., before Lisa Smith, a Certified Shorthand Reporter in and for the State of Texas, in the offices of Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC, located at 100 West Fifth Street, Suite 400, Tulsa, Oklahoma, in accordance with the Federal Rules of Civil Procedure and the agreement hereinafter set forth.

Walker Declaration Exhibit 5

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Gerard Hummel

April 8, 2009

3

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Gerard Hummel

April 8, 2009

4

I N D E X

Appearances	Page 02
Exhibit Index	Page 05
Examination by Ms. Hill	Page 07
Examination by Ms. Lloyd.	Page 127
Examination by Mr. Mirkes.	Page 133
Examination by Mr. Freeman.	Page 136
Reporter's Certificate	Page 154

Gerard Hummel

April 8, 2009

5

1
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E X H I B I T L I S T

No.	Description	Page Mrk'd	Page Ident.
1	Subpoena	08	08
2	Blank Investigation Form	47	47
3	Investigation Forms	95	95
4	Investigation Forms and Photographs	99	99
5	Investigation Forms	48	49
6	Investigation Form and Photographs	101	101
7	Investigation Form and Photographs	105	105
8	Investigation Form and Photographs	108	108
9	Handwritten Notes	121	122
10	Investigation Form	127	128
11	Investigation Forms	148	149

Gerard Hummel

April 8, 2009

6

P R O C E E D I N G S

THE VIDEOGRAPHER: This is Tape No. 1 to the videotaped deposition of Gerard M. Hummel in the matter of State of Oklahoma versus Tyson Foods being heard before the District Court in the United States of America, Case File No. 05-CV-0329 GKF-PJC. This deposition is being held at 100 West Fifth, Suite 400, Tulsa, Oklahoma on 4/8/09 at 8:30 a.m.

My name is Ann Davis. I am the videographer. The court reporter is Lisa Smith.

Counsel will please introduce themselves and affiliates and the witness will be sworn.

MS. HILL: Theresa Hill from Rhodes Hieronymus for Cargill, Inc. and Cargill Turkey, LLC. And with me, I've got Chris Dolan from Faegre and Benson in Minneapolis.

MR. WOMACK: Michael Womack with Riggs Abney for Plaintiff State of Oklahoma.

MR. FREEMAN: Bruce Freeman for Simmons.

THE REPORTER: Are there any stipulations or agreements you want on the record?

MS. HILL: No.

GERARD M. HUMMEL,
having been first duly sworn, testified as follows:

EXAMINATION

Gerard Hummel

April 8, 2009

7

1 BY MS. HILL:

2 Q. Major Hummel, shall I call you Major or Mister
3 or --

4 A. How about Rod?

5 Q. Rod.

6 A. That's my nickname. That's close -- close enough.

7 Q. I'll use Rod for the deposition today, then.

8 Again, for the record, my name is Theresa
9 Hill. We met for the first time this morning --

10 A. Yes, ma'am.

11 Q. -- to get start -- prior to getting started. I'm
12 sure you've given testimony many times before.

13 A. Yes, ma'am.

14 Q. But for purposes of our record here, let's go over
15 our ground rules for today.

16 A. Okay.

17 Q. Thank you. If I ask a question and you give me an
18 answer, I'm gonna assume you understood what I was asking
19 you.

20 A. Okay.

21 Q. If not, please ask for clarification. The court
22 reporter will need verbal responses, yes, no. Oftentimes,
23 witnesses will anticipate the end of the question and start
24 to jump in before I finish. Please try to let me finish my
25 question.

Gerard Hummel

April 8, 2009

8

1 A. Yes.

2 Q. And as long as there's not a question on the
3 table, you may call a break at any -- any time you need and
4 we can -- we can take a short break.

5 MS. HILL: Mark Exhibit 1.

6 (Exhibit No. 1 was marked.)

7 Q. Sir, I'm going to ask you to identify Exhibit 1
8 that the court reporter has just marked.

9 A. It appears to be the same subpoena that I was
10 served.

11 Q. That is the subpoena that caused you to be here
12 today?

13 A. Yes, ma'am.

14 Q. And on this subpoena, there is a check mark near
15 production of documents. Did you bring any documents with
16 you today?

17 A. No. The only thing I would have is 1099s, which I
18 was paid, and I could not locate those. Everything else
19 was turned back in to agents of the State.

20 Q. Okay. Did you have any e-mails that you
21 communicated with other persons on this project during the
22 course of the project?

23 A. Yes. I didn't think about those. We e-mailed our
24 hours to Steve Steele. I could get those. If they're
25 still archived, you can have those. I didn't think about

Gerard Hummel

April 8, 2009

9

1 those. But I could pull those up as far as hours worked
2 and dates if they're still in my e-mail archive.

3 Q. Is that your personal?

4 A. No. It would have been the City e-mail.

5 Q. Okay. Would you please check your --

6 A. Sure.

7 Q. -- your records.

8 A. Sure.

9 Q. Thank you.

10 Are there any other e-mails that you may have
11 had with Mr. Steele or anyone else on this project?

12 A. Not that I can think of.

13 Q. All right. Thank you.

14 What did you do in preparation for your
15 deposition today?

16 A. Nothing.

17 Q. Did you meet with anyone?

18 A. Yes. Last week or the week before, I don't
19 remember the specific date, I met with Rick Garren. And
20 pretty much he said you guys have all been deposed before,
21 tell the truth. If they ask you a -- ask you a question,
22 you know, answer. That's pretty much the -- I've been in
23 depositions many times before so this is not a new
24 experience to me.

25 Q. Okay. Did you have an individual meeting with

Gerard Hummel

April 8, 2009

10

1 Mr. Garren or a group meeting?

2 A. It was a group meeting.

3 Q. Do you recall who else was at that meeting?

4 A. Let's see, I don't remember the attorneys' names.
5 As far as the Tulsa police officers who were there, Tim
6 Jones, former Major Steve Steele. Gary Stansill was there,
7 I believe. And I don't remember -- Mike Nance was going
8 to, but he couldn't. I think that was all. That's all
9 that I recall.

10 Q. Was there any discussion of the substantive topics
11 that might be addressed in the deposition today?

12 A. They said that we're gonna be questioned about the
13 work that we did over there. Other than that --

14 Q. Were there any questions that anyone at the
15 meeting had?

16 A. Not that I can recall.

17 Q. Other than this meeting that you had with
18 Mr. Garren and others, did you speak with anyone else in
19 preparation for your testimony today?

20 A. No.

21 Q. Did you speak with Steve Steele at any time other
22 than at the meeting about your testimony here today?

23 A. No.

24 Q. Let's go over your background and training. Give
25 me the quick sketch of your education until you joined the

Gerard Hummel

April 8, 2009

11

1 police force.

2 A. I have a degree from the University of Tulsa,
3 health sciences, which is basically a degree in biology, a
4 minor in chemistry. My original intentions were to go to
5 medical school, but a senior in college, I decided I wanted
6 to try to be a police officer and 30 years later here I am.

7 Q. And you have a Bachelor's degree, then --

8 A. Yes.

9 Q. -- in health sciences?

10 A. Yes.

11 Q. Thank you. And what year did you start with the
12 Tulsa Police Force?

13 A. 1979.

14 Q. Okay. During your education at the University of
15 Tulsa in health sciences, what job experience did you have,
16 if any?

17 A. Oh, I had -- like many college students, I had a
18 number of jobs. Let's see, I drove a cab for part time
19 during college. I worked at Indian Springs Country Club,
20 drove a truck for Economy Lumber Company. I think I worked
21 in a restaurant a time or two. That's about it.

22 Q. Okay. Where did you go to high school, sir?

23 A. Bishop Kelly.

24 Q. Okay. Did you grow up here in Tulsa?

25 A. No. I moved here when I was a sophomore in high

Gerard Hummel

April 8, 2009

12

1 school from Massachusetts. Lived in Massachusetts,
2 Connecticut and was born in New York.

3 Q. So you grew up in mostly urban areas?

4 A. Yes.

5 Q. Tell me about your experience at the Tulsa Police
6 Force, a general overview of departments you worked for,
7 titles, type of work.

8 A. I graduated from the police academy in 1980. I
9 was a patrol officer for about a year-and-a-half. I was a
10 K-9 officer with a police dog for eight years. In 1989, I
11 was promoted to sergeant. After that, I worked as a field
12 supervisor, Internal Affairs investigator. I was promoted
13 out of Internal Affairs to be a lieutenant. I was a watch
14 commander for several years, executive officer Uniform
15 Division North.

16 Then for five years, I was commander of
17 Internal Affairs. In 19 -- I'm sorry -- in 2004 or '5, I
18 was promoted to the rank of major. My first assignment was
19 command of the Headquarters Division. After that, Uniform
20 Division Southwest. Then commanded the Special Operations
21 Division and currently I'm the director of the Tulsa Police
22 Academy.

23 Q. Thank you.

24 A. Uh-huh.

25 Q. Tell me generally what were your duties as a field

Gerard Hummel

April 8, 2009

13

1 supervisor.

2 A. Supervise squads. The entire time I was a
3 sergeant, I worked out of Uniform Division East. A squad
4 sergeant's general supervision over a squad of officers,
5 their duties, their activities, in charge of crime scenes
6 as far as the uniform response and general supervision of a
7 squad of officers.

8 Q. Any environmental or agricultural investigations
9 associated with field supervisor work?

10 A. No.

11 Q. Give me a brief description of Internal Affairs.
12 What is that department?

13 A. Internal Affairs investigates -- as is probably
14 dramatized on TV many times, we investigate complaints
15 against police officers.

16 Q. Okay. So no investigations involving agriculture
17 or environmental matters in the Internal Affairs
18 Department; is that correct?

19 A. That would be a very fair statement.

20 Q. Can you give me a description of what a watch
21 officer does.

22 A. Watch commander?

23 Q. Yes, sir.

24 A. A watch commander's responsibility generally in
25 the evening, a lieutenant or captain is the highest-ranking

Gerard Hummel

April 8, 2009

14

1 officer on duty. And generally, a watch commander has
2 duties over the entire shift of officers. But many times
3 there may just be one watch commander on duty, so they will
4 be responsible for responding to all crime scenes, tactical
5 operations. They're kind of the eyes and ears of the chief
6 of police at night.

7 You will do press -- press releases a lot of
8 times. The news is out at night. A lot of their ratings
9 depend on having breaking news. And the watch commander
10 will, in addition to supervising all the officers on duty
11 in the city, be responsible for responding to press
12 requests for information.

13 Q. Thank you.

14 Can you give me a description of the
15 projects, investigations or things you worked on with
16 Special Operations.

17 A. The Special Operations Division in Tulsa -- an
18 easy way to say it is where all the toys are, K-9, mounted
19 patrol, helicopter, SWAT team -- let's see -- motorcycles,
20 the bomb squad, the dive squad. It's all the things that
21 don't fit somewhere else. So it's like a general -- I was
22 in charge of all those operations in the department.

23 Q. Okay. Now we're going to talk about being the
24 director of the police academy in just a moment. But going
25 over the history that you gave me from 1980 through the

Gerard Hummel

April 8, 2009

15

1 Special Operations, did you have any environmental training
2 or -- in --

3 A. No.

4 Q. -- that?

5 A. The Tulsa Police Department provides no training
6 on environmental operations.

7 Q. Did you investigate any agricultural crimes?

8 A. No.

9 Q. As director of the Tulsa Academy, are you involved
10 in any training relating to any environmental matters?

11 A. No. We do do some training on meth lab -- meth
12 lab cleanup, as I'm sure you've heard in the news lately,
13 but I don't believe that involves anything at interest
14 here.

15 Q. Do you have any training dealing with hazardous
16 substances or materials generally other than the meth lab
17 training?

18 A. No.

19 Q. Along with the meth lab training, though, is there
20 a component that deals with Hazmat situations?

21 A. Sure. And I probably should have mentioned that.
22 I mean, there is some general training as far as train
23 collisions and so forth where there might be releases of
24 hazardous materials, distances to stay away, placarding of,
25 you know, substances and so forth.

Gerard Hummel

April 8, 2009

16

1 Q. Have you ever been involved in an incident where
2 you responded to a release of a hazardous material or
3 substance?

4 A. Yes.

5 Q. Can you please describe that for me.

6 A. It was in the 1980s. I don't remember. It was a
7 bad truck collision over off the northwest corner of the
8 IDL, a flaming truck. And there's been several other
9 instances like that over the years that the police
10 department would respond to. We secure the scene. The
11 fire department mostly handles those type of situations.
12 The police department's role is providing security, keeping
13 -- keeping people back and safe and so forth.

14 Q. Were the other incidents involving trucks or
15 vehicles also?

16 A. Yes, trucks or trains. I don't remember. It's
17 been 20-odd years, but -- stay back is pretty much it.

18 Q. And in the course of responding to those
19 incidents, did you or someone under your direction make any
20 reports to other state or federal agencies?

21 A. I'm sure there were.

22 Q. Because you're aware generally that hazardous
23 material releases need to be reported to state and federal
24 agencies?

25 A. Of course.

Gerard Hummel

April 8, 2009

17

1 Q. I believe that I've asked you this generally, but
2 let's make sure we have a clear record. Do you have any
3 experience in agriculture?

4 A. I've grown some tomatoes, but that's about it.

5 Q. In your yard?

6 A. Yes.

7 Q. Okay. How about any ranching or farming?

8 A. No.

9 Q. How about any prior knowledge prior to your
10 involvement with this matter of the poultry industry?

11 A. No.

12 Q. Tell me about your relationship with Steve Steele.
13 How do you know --

14 A. I've worked with Steve Steele off and on since the
15 late, middle 1980s. Our paths crossed when he was a
16 sergeant and I was an officer and we've been friends. I've
17 worked for him and/or with him since the late 1980s.

18 Q. You have a lot of respect for Mr. Steele?

19 A. Yes, I do.

20 Q. You believe he's an honest man?

21 A. I do.

22 Q. And a man who diligently does tasks assigned to
23 him?

24 A. Yes.

25 Q. Have you ever worked for Steele Investigations and

Gerard Hummel

April 8, 2009

18

1 Research, LLC?

2 A. Yes.

3 Q. Okay. Tell me about the nature of the work that
4 you've done for Steele Investigations and Research, LLC?

5 A. Pretty much documenting the spreading of chicken
6 manure in Northeast Oklahoma and Northwest Arkansas.

7 Q. So is it your testimony today that all of the work
8 that you did in relation to the case that we're here on
9 today was for Steele Investigations and Research, LLC?

10 A. Yes.

11 Q. Tell me how you were paid in this matter, the
12 mechanism.

13 A. After we worked, we'd take the number of hours and
14 the miles, send that to Steve Steele. I don't really know
15 the mechanism after that. I'm sure he turned it in and
16 then we received a check approximately a month or so later.

17 Q. Do you know who wrote the check that you received?

18 A. It was some law firm, but I don't -- I don't -- I
19 can't recall which one.

20 Q. These 1099s, do you -- do you believe a 1099 came
21 from Steele Investigations and Research, LLC?

22 A. No. That's right. The 1099s came from
23 Lithochimiea.

24 Q. Lithochimiea?

25 A. Yes. And I assume now that the checks came from

Gerard Hummel

April 8, 2009

19

1 them, too, now that I think about it.

2 Q. Do you know what Lithochimiea is?

3 A. It's Bert -- I can't remember his last name. I
4 believe he does some kind of environmental geology company
5 that provides services in that area.

6 Q. Do you know Dr. Bert Fisher?

7 A. Just through this, yes. I've met with him a few
8 times.

9 Q. Prior to your work on this case, had you ever
10 heard of Dr. Bert Fisher before?

11 A. No.

12 Q. You never ran into him at the University of Tulsa?

13 A. No. I mean, I may have back then, but I had no
14 recollection. I don't know if he was there when I was
15 there.

16 Q. Tell me about your meetings with Dr. Fisher.

17 A. First meeting was in spring of 2005. They told us
18 they had been contracted with, as far as I can recall, for
19 the State of Oklahoma to provide some research and evidence
20 gathering for the Attorney General's case and wanted us to
21 document the spreading of chicken litter.

22 Q. Tell me, then, when you initially became involved
23 in this project, what did you understand your task to be?

24 A. To document the spreading of chicken manure in
25 Northeast Oklahoma and Northwest Arkansas.

Gerard Hummel

April 8, 2009

20

1 Q. Did that -- those tasks change over time?

2 A. Well, what I recall is first we went out and --
3 what would be a good word -- ground truthing, perhaps.
4 There were overhead photos of what were believed to be
5 chicken houses. We drove around to find out which ones
6 were still in operation. As you probably know, there's a
7 number of houses from the air look like they're chicken
8 houses and they may have been at one time, but they could
9 be now being used for the storage of hay or other farming
10 operations, and find out which ones were still active.

11 Q. So the first part of the project was the ground
12 truthing to determine whether these farms that you were
13 driving by had active poultry operations?

14 A. Correct.

15 Q. Okay. And then what were the next tasks that you
16 were involved in with this project?

17 A. Drove around a lot looking for people who were
18 taking chicken manure and spreading it and documenting the
19 locations, times, dates and so forth where the manure was
20 being spread.

21 Q. Were there any other tasks that you were assigned
22 to do with this project?

23 A. In 2007, I believe we served some subpoenas toward
24 the end of the year. Other than that, I don't believe so.

25 Q. Do you know who the subpoenas were served on?

Gerard Hummel

April 8, 2009

21

1 A. I cannot remember the names. I'm sure if I had
2 them in front of me I could -- I could recall.

3 Q. Were they -- were they poultry growers?

4 A. I believe most of them were either poultry -- they
5 were all people connected with poultry operations. I think
6 some were growers. I think some were spreaders. I
7 remember one. I think it was Traylor Shavings in Arkansas
8 who provided the wood shavings that were put on the floor
9 of the poultry houses.

10 Q. Okay. Did you do any research for this project?

11 A. No.

12 Q. Didn't do any work on your computer?

13 A. I remember looking at just Google maps to find a
14 location but -- of interest. But other than that, I don't
15 recall doing any research.

16 Q. When you found these Google maps, would that be
17 after you were out in the watershed for the day or in
18 advance of the trip to the watershed?

19 A. I think both.

20 Q. Okay. What areas of interest were you looking
21 for? What types of things were you looking for?

22 A. Well, you know, I've never really explored much of
23 Northeast Oklahoma or Northwest Arkansas and many times it
24 was just to get a lay of the land, to find a map of where
25 the roads went and so forth.

Gerard Hummel

April 8, 2009

22

1 Q. I understand from our deposition of Mr. Steele
2 yesterday that when you started in the morning on a day's
3 outing, you would receive a package that included maps of
4 where to go --

5 A. Yes, uh-huh.

6 Q. -- and where to document your observations.

7 A. Uh-huh.

8 Q. But there were times that you would take a look at
9 a map ahead of time just to see where you might be going?

10 A. Yeah. Sometimes you'd want to zoom in a little
11 bit more and, you know, see what an area was. And also,
12 you know, sometimes you'd make a report and it would be
13 very hard to describe, you know, the exact area. It was
14 much easier if you could just print off a little map and go
15 right here.

16 Q. And draw it in on the map?

17 A. Sure.

18 Q. Prior to this assignment, had you ever been to the
19 Illinois River before?

20 A. Just on a recreational basis.

21 Q. How often have you recreated in the Illinois River
22 Watershed?

23 A. During high school quite a bit. I think only one
24 time since then and that was in relation to a Boy Scout
25 trip.

Gerard Hummel

April 8, 2009

23

1 Q. When was the last time that you were on the river?

2 A. 2003, perhaps. It might have been 2004. And
3 again, that was in relation to a Boy Scout trip.

4 Q. Any reason why you haven't been back since 2003 or
5 2004?

6 A. Well, my son's advanced further in Eagle Scouts
7 and we didn't have any Boy Scout trips and now he's in
8 college.

9 Q. How about Lake Tenkiller, have you had an
10 opportunity to go to Lake Tenkiller?

11 A. In high school we kept a boat down on Lake
12 Tenkiller, boated quite often down there. I haven't been
13 on Lake Tenkiller in many years, though.

14 Q. Is there a reason why you've not been back to Lake
15 Tenkiller?

16 A. Until last year, I kept my boat on Grand Lake.

17 Q. Where do you keep your boat now?

18 A. It's in my backyard.

19 Q. All right. Tell me about your first meeting with
20 Dr. Bert Fisher.

21 A. Again, it was in the spring of 2005, I recall
22 March. I'm not certain of that. It was Bert and a number
23 of the other police officers who Steve had contacted to do
24 this work. I think all of us were pretty clueless at the
25 time about poultry operations, the spreading of chicken

Gerard Hummel

April 8, 2009

24

1 manure and so forth. And it was pretty much the Attorney
2 General would like to get some information about what is
3 going in the Watershed and asked us to become familiar and
4 document what we saw over there.

5 Q. Do you know whether the lawsuit had been filed at
6 that time?

7 A. I believe it had. But I mean, you would obviously
8 know that better than I would. I just -- I don't recall.

9 Q. Was there any discussion of the lawsuit itself at
10 this first meeting?

11 A. Not that I recall, but there may have been. I
12 just cannot say with certainty.

13 Q. All right. You testified that at that time you
14 were pretty clueless about the spreading of chicken litter.
15 Did you get some education at this meeting about what to
16 look for and -- that's all. What to look for.

17 A. I'd be lying if I said I remember exactly. I
18 really don't. I've been so educated since that time that
19 any words that may have been said at that time are lost on
20 me.

21 Q. Okay. Nothing stands out about a description of
22 the poultry industry in that first meeting?

23 A. Correct.

24 Q. You told me that you've been educated since then.
25 Tell me about the nature of that education on the poultry

1 industry.

2 A. I don't know how much you've reviewed the evidence
3 that we gathered over there. But there are numerous
4 pictures and videos of people spreading chicken manure and
5 it's very smelly and I've seen a lot of it spread,
6 sometimes tons and tons for eight hours a day on the same
7 few acres of location.

8 Q. Did you get any training in identifying different
9 types of poultry manure?

10 A. I don't know if you would call it training, but
11 experience. The dry -- I guess you would call it dry --
12 the material in the wood shavings and waste that would be
13 combined and taken out of the barns is very smelly. The
14 worst-smelling stuff, in my humble opinion, is that coming
15 out of the egg farms. I'm not sure of the gathering
16 mechanism, but it appears to be kept in some type of either
17 tank or lagoon, and then that's spread over a location and
18 I can only say that it reeks.

19 Q. Do you have any training in identifying other
20 types of manure other than poultry manure?

21 A. A few times -- I wouldn't call it training but
22 experience. I observed the spreading of waste from hog
23 farms. And I guess the best way to say it is it smells
24 more mammalian than the poultry byproducts.

25 Q. So from your on-the-job training, you learned to

Gerard Hummel

April 8, 2009

26

1 distinguish between different types of manure; is that your
2 testimony?

3 A. I would say that I could probably by smell tell
4 which is which.

5 Q. Do you believe by smell you can distinguish
6 between a liquid manure from the laying facilities and a
7 dry manure?

8 A. I believe I could.

9 Q. How about any training on different types of dry
10 litter from poultry operations?

11 A. I'm not quite sure what you're asking. Are you
12 talking about the difference being -- for instance, between
13 turkey and chicken?

14 Q. Yes. That would be one difference. Are you aware
15 of --

16 A. The turkey seems to be darker in color from my
17 experience, but the odor in my opinion is approximately the
18 same.

19 Q. Have you ever been educated about what brood
20 litter is?

21 A. No.

22 Q. Have you ever heard that term before?

23 A. I have never heard those two words used together.

24 Q. When you observed these poultry operations, did
25 you determine whether these were one-stage operations,

Gerard Hummel

April 8, 2009

27

1 two-stage operations or even three-stage operations?

2 A. I'm not familiar with one, two or three-stage, the
3 meaning of that in relation to this.

4 Q. And from your observations in the field, you did
5 not learn about phased operations such as two phases?

6 A. Correct.

7 Q. In your training for this project, did you learn
8 about the environmental laws of Oklahoma or Arkansas as
9 they relate to the spreading of poultry litter?

10 A. I'm unfamiliar with those.

11 Q. Did you read any articles or receive any training
12 or education on how spreading is conducted, for instance,
13 how a litter truck might be calibrated?

14 A. No. The only thing I really read on this is
15 what's available in the newspaper and online, newspaper
16 stories. I have not done any independent research.

17 Q. Have you followed this case in the newspaper?

18 A. I wouldn't say actively. Whenever I've seen an
19 article, I've certainly read it.

20 Q. Prior to becoming involved in this matter, had you
21 read about the poultry industry in the Tulsa World?

22 A. Just tangentially. I remember being a City of
23 Tulsa employee that there was talk in the city about the
24 lawsuit as far as Lake Euchi's water supply for the City of
25 Tulsa. But other than that, no.

Gerard Hummel

April 8, 2009

28

1 Q. Is that the extent of your knowledge about the
2 City of Tulsa litigation involving the Euchi Spavinaw
3 Watershed?

4 A. Yes.

5 Q. Do you have any other knowledge of the Euchi
6 Spavinaw Watershed?

7 A. Not really.

8 Q. Did you ever make any observations in the Euchi
9 Spavinaw Watershed for this project?

10 A. I believe we were up in that area in the early
11 part of this when we were trying to understand the maps,
12 the difference between the Illinois River Watershed and the
13 Euchi Spavinaw, which are, my remembrance, adjacent to --
14 adjacent to each other.

15 Q. Did you go to the Euchi Spavinaw Watershed for a
16 purpose to make an observation or did you end up there when
17 you were outside the boundary of the Illinois River
18 Watershed?

19 A. Your latter statement is probably more correct,
20 yes.

21 Q. You may have ended up in the Euchi Spavinaw
22 Watershed unintended?

23 A. Sure.

24 Q. Okay. Tell me about the boundary of the
25 Watershed. How is that you determined, then, what was the

Gerard Hummel

April 8, 2009

29

1 Illinois River Watershed and what may have been the Euchie
2 Spavinaw Watershed?

3 A. My remembrance is that we had maps with the
4 Watershed marked with a line on the maps as to the boundary
5 of the Watershed. There were several times we observed
6 litter spreading and then, you know, looked on the map and
7 very close to the boundary and realized we were not inside
8 the Illinois River Watershed, you know, within a mile or
9 so. But we would still write it down and say, here it is.
10 We believe this to be out. That's my recollection.

11 Q. With a map with a line, how is it that you
12 determined whether you were in the Illinois River Watershed
13 or another Watershed?

14 A. Well, it's very easy. You look at the map and you
15 find out where you are on the road using the GPS and you
16 can generally tell. I mean, in some cases, okay, we're
17 really close. Other times it's very obvious by the map on
18 the location of the road where you are.

19 Q. You must be a better map reader than I am.

20 A. I'm pretty good at that time. I've become very
21 good with a GPS in relation to this case.

22 Q. Did your map have markings of GPS locations around
23 that boundary?

24 A. Some of the maps did, yes.

25 Q. And where did you obtain these maps?

Gerard Hummel

April 8, 2009

30

1 A. From Steve Steele. I believe they were prepared
2 through Lithochimiea or however the correct pronunciation
3 is.

4 Q. I believe it's Lithochimiea.

5 A. Okay.

6 Q. You said you've read about this case and knew a
7 little bit about the City of Tulsa case from newspaper
8 articles and what you saw online. What is it that you've
9 seen online about this litigation?

10 A. Any number of stories over the last few years. I
11 mean, generally, the poultry industry is stating their side
12 and the Attorney General is stating his side.

13 Q. What is the source of those articles? Are they
14 mostly Tulsa World articles that you read?

15 A. Yes, yes. Sure.

16 Q. So you haven't actively sought out other sources
17 to research this case, have you?

18 A. No.

19 Q. So most of what you know about this case is either
20 from your involvement or what you've read in the Tulsa
21 World?

22 A. I would say all of it is from that, yes, those
23 sources.

24 Q. All right. Your original assignment in this case,
25 the purpose of that assignment was to determine the --

Gerard Hummel

April 8, 2009

31

1 whether the poultry houses you were observing were active
2 or inactive?

3 A. Correct.

4 Q. Okay. Did you also have occasion, then, to follow
5 litter haulers and document hauling activities?

6 A. Many times.

7 Q. Tell me about the nature of your assignment to
8 document hauling activities.

9 A. Generally, one would drive around and look for a
10 truck, a spreader truck and/or -- it's very easy to drive
11 in a location where the litter is being spread and to
12 notice the smell and one can usually tell if it's been
13 freshly applied either through the smell and/or the tracks
14 on the road. It is very quite -- it is very common for the
15 spreaders to not put the tarps on the back of their trucks
16 so there will literally be a trail of chicken manure or
17 poultry manure on the road and you can follow it back to
18 the location. Document the location where the manure is
19 being spread. Follow the truck back to the -- the grower,
20 the location. Document that GPS location and observe and
21 document the activities, how many -- how many loads are
22 going and so forth.

23 Q. Did you attempt to document the distance that the
24 poultry litter was being hauled?

25 A. Well, as far as -- I mean, I cannot recall ever

Gerard Hummel

April 8, 2009

32

1 looking at my odometer and calculating the distance, but
2 that is easily done by taking the differential between the
3 two GPS points.

4 Q. But did you engage in that work?

5 A. Documenting the GPS locations?

6 Q. Calculating the distance.

7 A. I did not calculate the distance personally.

8 Q. Okay. And did you follow these litter-hauling
9 trucks outside of the boundary of the Illinois River
10 Watershed?

11 A. In several locations, yes.

12 Q. Okay. And what was the purpose of following them
13 out of the Watershed?

14 A. To document where the litter is being taken.

15 Q. How far would you follow them?

16 A. The furthest one that I recall was down by
17 Sallisaw.

18 Q. How long did you follow that truck?

19 A. Probably at least an hour.

20 Q. Did you follow that truck until it made it to its
21 final destination?

22 A. Yes.

23 Q. So it was not uncommon for you to leave the
24 Watershed if you were following a litter truck?

25 A. That was not very common the first year. I don't

Gerard Hummel

April 8, 2009

33

1 believe any of that happened in 2005. I believe the -- my
2 belief is that the existence of this case caused many
3 growers to start moving their litter out of their Watershed
4 more than they used to. In 2005, I did not document any
5 instances where -- where I saw litter or had any knowledge
6 of it being taken out of the Watershed and that appeared to
7 happen much -- much more common after we started doing
8 this.

9 Q. During your first year on this project in 2005, if
10 I understand, you know, the records I've been through here
11 and Mr. Steele's testimony, the primary purpose for that
12 project was to identify active or inactive houses; is that
13 correct?

14 A. I'm sorry. One more time.

15 Q. Initially, your initial assignment in this project
16 was to identify active or inactive houses.

17 A. That was one of the initial things, yes.

18 Q. And what were your other initial tasks?

19 A. To document the spreading of chicken manure.

20 Q. Was that incidental to the survey of active versus
21 inactive houses?

22 A. Yes.

23 Q. But the primary reason why you were in the
24 Watershed was to document the active versus inactive houses
25 in 2005?

Gerard Hummel

April 8, 2009

34

1 A. Well, that was one of the first activities, but
2 when we saw chicken manure being spread, we also documented
3 that.

4 Q. But the reason why you were there in the Watershed
5 was to complete the task in documenting active versus
6 inactive watersheds in the --

7 A. That was one of the first things we did, yes.

8 Q. In the 2005 time frame?

9 A. Correct.

10 Q. All right. And did you have occasion to interview
11 any poultry growers throughout the course of your work on
12 this project?

13 A. I did not.

14 Q. Have you ever spoken with a poultry grower in any
15 Watershed?

16 A. Yes. I was with Steve Steele once and I don't
17 remember the date, and I don't recall the gentleman's name.
18 Perhaps Barney. I could be wrong on that. Outside -- it
19 was in -- I believe it was up in the Euchi Watershed, Euchi
20 Spavinaw Watershed, and Steve Steele had to talk to him
21 about something and I was along with him. I had never been
22 inside a chicken house before and walked around inside and
23 took a look at his operation.

24 Q. You then -- you were given a tour of the operation
25 then?

Gerard Hummel

April 8, 2009

35

1 A. Yes.

2 Q. Okay. Was that a Mr. Barnes; does that sound
3 familiar?

4 A. That may be correct. I remember Barney, but I
5 could be wrong about that.

6 Q. Did you do any of the interviewing?

7 A. No. I mean, I don't know if you would call it an
8 interview. I don't even recall the essence of the
9 conversation. It's been several years ago and I did not
10 make any notes about it.

11 Q. Do you recall the purpose of that trip to Barney's
12 operation?

13 A. I do not recall the purpose. You'll have to ask
14 Steve.

15 Q. We're stepping on each other a little bit. I'll
16 try to get my questions out a little faster.

17 A. Oh, no problem. Can we stop so I can get a cup of
18 coffee?

19 Q. Absolutely.

20 THE VIDEOGRAPHER: We're off the record at
21 9:23 a.m.

22 (Break was taken from 9:23 a.m. to 9:31 a.m.)

23 THE VIDEOGRAPHER: This is Tape No. 2. We're
24 back on the record at 9:31 a.m.

25 Q. (BY MS. HILL) Before the break, Rod, we were

Gerard Hummel

April 8, 2009

36

1 discussing your training on this project. Did you have any
2 other meetings with Bert Fisher other than the one we
3 described before the work started in earnest?

4 A. I talked to him several times during this project,
5 but I certainly wouldn't -- I have no memory of any other
6 training, per se. I think my only meetings were to be
7 bringing notes by his office and so forth that we had taken
8 during a trip.

9 Q. How many times would you estimate that you took
10 notes by Dr. Fisher's office?

11 A. Two times, perhaps.

12 Q. Because I understand generally Steve Steele did
13 that.

14 A. Correct.

15 Q. But on several occasions, you would gather all the
16 documents from the field for the day and take them into
17 Dr. Fisher?

18 A. My recollection is there were two, perhaps three
19 at the most times where for whatever reason I took notes
20 and/or cameras, GPS units by Dr. Fisher's office. And I
21 think it was a situation, if I remember correctly, that
22 Steve couldn't, unavailable, some schedule conflict.

23 Q. Were those days that Steve was out in the field
24 also?

25 A. They may have been.

Gerard Hummel

April 8, 2009

37

1 Q. When you gathered these documents up from everyone
2 in the field today to talk to Dr. Fisher, did you review
3 the forms filled out by other teams in the field?

4 A. I do not recall taking other people's documents by
5 there. Just -- just my own. There may have been, but --
6 but no, I did not review anyone else's work.

7 Q. Okay. I'm sorry. I misunderstood. At the end of
8 the day, what happened after several teams were out in the
9 field, what would you generally do?

10 A. Typically, we'd meet with Steve at some location
11 on the way back to Tulsa and we'd give Steve all the
12 notebooks, the cameras, the GPS units -- I think that's
13 it -- and/or videotapes, and Steve would return those in
14 some fashion.

15 Q. Return those to whom?

16 A. I'm assuming Lithochimiea.

17 Q. Other than these two or three times that you
18 dropped your notes off to Dr. Fisher, did you have any
19 other occasion to visit with Dr. Fisher?

20 A. There may have been a couple times. I know my --
21 a couple of years ago, my then fiance had a surprise
22 birthday party for me and Steve brought Dr. Fisher with him
23 to that. But other than that, I do not recall any visits
24 with him.

25 Q. You don't recall any visits about your

Gerard Hummel

April 8, 2009

38

1 investigation or work on this project with Dr. Fisher?

2 A. Again, there may have been, but I do not recall
3 any specific visits with him.

4 Q. Other than Dr. Fisher and Steve Steele and the
5 other investigators who were out in the field, have you had
6 any contact with any of the other of the State's attorneys
7 or State's experts?

8 A. There's some guy named Larry, if I remember his
9 name, that worked at Lithochimiea that would prepare maps.

10 Q. Larry Hight who works with Bert Fisher?

11 A. I do not know his last name. I know him as Larry.
12 It may very well be Hight. I believe one of the meetings
13 there, it may have been the initial meeting, Louis Bullock
14 was there. I do not recall the name of any other attorneys
15 besides him and Rick Garren there.

16 Q. Did Mr. Bullock make any presentations at this
17 initial meeting?

18 A. Not that I recall.

19 Q. Did Mr. Garren make any presentations at this
20 initial meeting?

21 A. Mr. Garren talked, yes.

22 Q. Did he have a slide show presentation or --

23 A. No.

24 Q. -- just talked?

25 A. Just talked.

Gerard Hummel

April 8, 2009

39

1 Q. What did he tell you?

2 A. I remember him telling us that we're gonna be, as
3 I stated earlier, documenting chicken manure spreading.
4 That was the essence of the talk and that our work was
5 considered confidential and shouldn't be sharing it with
6 others.

7 Q. Any other instructions that Mr. Garren gave you?

8 A. Not that -- not that I recall.

9 Q. Did you have other occasions to talk to
10 Mr. Garren about your work on this project?

11 A. I talked to him in late 2007 after a subpoena
12 service in -- I can't remember the name of the town in
13 Arkansas or the woman's name.

14 Q. Do you believe that was a subpoena served on a
15 poultry grower?

16 A. I do not believe she was a grower at the time. If
17 you'd say her name, you would probably know it. I can't
18 remember her name. She had some relationship with an
19 organization called Poultry Partners, if I remember.

20 Q. Bev Saunders?

21 A. That's it.

22 Q. Do you have any other knowledge about Bev
23 Saunders?

24 A. Other than that, no.

25 Q. What is Poultry Partners?

Gerard Hummel

April 8, 2009

40

1 A. I -- my understanding it's some type of
2 consortium, if that's the correct word, of poultry growers.

3 Q. How is it that you learned about Poultry Partners?

4 A. Through Steve Steele.

5 Q. What did Mr. Steele tell you about Poultry
6 Partners?

7 A. My understanding, that it was a group of poultry
8 partners who were lobbying for the interests of the poultry
9 growers.

10 Q. Have you ever seen any public statements that
11 Ms. Saunders has made?

12 A. Not that I recall, no.

13 Q. Have you read any statements that she's made in
14 any of the Tulsa World articles that you've read?

15 A. I think I read some statements that she made in
16 the Tulsa World.

17 Q. Do you have any opinions of Ms. Saunders?

18 A. Well, she didn't seem to be a very nice person. A
19 lot of people don't like to be served with subpoenas.

20 Q. She was not very happy to receive your subpoena;
21 is that what you're telling me?

22 A. That would be a very good characterization.

23 Q. Do you believe Ms. Saunders might have been
24 frightened by the service of the subpoena?

25 A. No, I would not characterize her as frightened.

Gerard Hummel

April 8, 2009

41

1 She seemed angry.

2 Q. Do you have any other knowledge of Ms. Saunders?

3 A. No.

4 Q. What report did you make to Mr. Garren about
5 Ms. Saunders?

6 A. I told him she was very unhappy and appeared to be
7 angry. That is my recollection.

8 Q. And what did Mr. Garren say in response to that?

9 A. I do not recall his response.

10 Q. Prior to serving Ms. Saunders with the subpoena,
11 had you ever met Ms. Saunders before?

12 A. No.

13 Q. Have you ever met Ms. Saunders since then?

14 A. No.

15 Q. So your only encounter with Ms. Saunders was when
16 you served her with a subpoena?

17 A. That's correct.

18 Q. Tell me about any other conversations you've had
19 with Mr. Garren about this case?

20 A. The ones that I've recounted are the only ones
21 that I recall.

22 Q. Have you ever spoken with Mr. Bullock about this
23 litigation?

24 A. I wouldn't say I've spoken to him about it. He
25 was there at several meetings. And if we had any

Gerard Hummel

April 8, 2009

42

1 conversations, they were light and just like wow, this
2 stuff stinks. But other than that, I can't recall anything
3 of substance.

4 Q. Did you know Mr. Bullock before your involvement
5 in this matter?

6 A. Yes.

7 Q. Is he a social acquaintance?

8 A. Not at all, no. My only other knowledge or times
9 I've been with him, as you can imagine, the commander of
10 Internal Affairs gets deposed often as far as officer
11 discipline. I was also the commander of Internal Affairs
12 during the time of the lawsuit when the Black Officers
13 Coalition was occurring so I had much involvement in that
14 case.

15 Q. Any prior involvement with Mr. Garren on any
16 matters?

17 A. No.

18 Q. Did you have any conversations with any other
19 attorneys representing the State of Oklahoma?

20 A. Not that I recall, unless they were there at those
21 meetings, but nothing of substance that I can recall.

22 Q. I'm a little confused about how many meetings
23 there were and when these meetings were with attorneys.
24 Can you tell me how many meetings and who was there?

25 A. I remember the -- as I stated earlier, there was

Gerard Hummel

April 8, 2009

43

1 the initial meeting, the meeting last week or the week
2 before when Mr. Garren asked us to come together before the
3 -- after the subpoenas were served and there may have been
4 one or two others, but I just don't recall.

5 Q. I have the two meetings -- the one -- the first
6 one where Mr. Garren and Mr. Bullock were present.

7 A. Uh-huh.

8 Q. And your second meeting with Mr. Garren. The
9 reason for my confusion is you said Mr. Bullock was at
10 several of these meetings and we only have him at one right
11 now. So can you think of any other meetings that
12 Mr. Bullock may have been present for?

13 A. He may have been there when I -- I think he was
14 there once or twice when I dropped off the documentation,
15 as I talked about earlier.

16 Q. Did you drop off the documentation at
17 Lithochimiea?

18 A. Yes.

19 Q. Not Dr. Fisher's house?

20 A. I've never been to his home.

21 Q. At the time that you dropped off these documents
22 at Lithochimiea, was Lithochimiea in the same office as
23 Mr. Bullock's office, the same building?

24 A. The location where I dropped it off was
25 approximately 200 South Kenosha.

Gerard Hummel

April 8, 2009

44

1 Q. 222 South Kenosha?

2 A. That sounds good. And I do not know if
3 Mr. Bullock there or now officed at that location.

4 Q. Okay. These occasions when you dropped documents
5 off at 222 South Kenosha, did you have occasion to speak
6 with any other attorneys?

7 A. I may have, but it certainly doesn't stick out in
8 my mind.

9 Q. But to make sure we have a clear record, you
10 believe that you may have spoken with Mr. Bullock on one or
11 two of these occasions when you dropped documents off for
12 Dr. Fisher?

13 A. That is very possible. Nothing stands out in my
14 mind as far as instructions, conversations. My purpose
15 would have been to drop off the documentation.

16 Q. Have you ever spoken with anyone from the Attorney
17 General's office about this litigation?

18 A. No.

19 Q. Do you know whether anyone from the Attorney
20 General's office was at the first meeting you described?

21 A. I do not know.

22 Q. So far -- as far as these meetings, I have the
23 first training meeting, then I have a few incidental times
24 you may have met with -- may have ran into Mr. Bullock or
25 others when you were dropping off documents, and then I

Gerard Hummel

April 8, 2009

45

1 have the meeting in preparation for this deposition. Can
2 you recall any other meetings with attorneys or Dr. Fisher?

3 A. Not really, no.

4 Q. Okay. As far -- as far as training for this
5 project, you've described some initial training at this
6 very first meeting. Have you had any other training or
7 instruction for this project?

8 A. No.

9 Q. Did you read any materials in preparation for your
10 work on this project?

11 A. No, ma'am.

12 Q. I understand that when you would go out in the
13 field for the day, you would get a package of forms and
14 maps. Other than that documentation, were you given any
15 documents to review for your work in this matter?

16 A. Not that I recall, other than maps, a preprinted
17 form with -- put photograph numbers and GPS points, so
18 forth.

19 Q. We'll get to those forms in a few minutes.

20 A. Uh-huh.

21 Q. Did you have any supervision on this project?

22 A. Steve Steele was the general supervisor.

23 Q. And did he supervise your activities in the field?

24 A. That is a fair characterization.

25 Q. I understand there would be meetings before the

Gerard Hummel

April 8, 2009

46

1 teams would head out in the morning with Mr. Steele.

2 A. Typically, we would meet at Uniform Division East
3 and 11th Street and Highway 169, drive east, eat some
4 breakfast. Steve would hand out the maps afterward and
5 then we'd go out for our day's work.

6 Q. And did Steve Steele give you instructions at
7 those early meetings?

8 A. Yes.

9 Q. And what was the nature of his instruction?

10 A. Typically, it would be what area we want to look
11 at or, you know, what we were gonna do for the day, what
12 the attorneys had told him were our priorities.

13 Q. How is it that you became involved in this
14 project? Tell me about your first contact.

15 A. In -- again, it was spring 2005. Steve Steele
16 contacted me. And I don't recall if it was a phone call or
17 in person. I do not recall how he was contacted, names
18 attached or so forth, but he had been contacted in some
19 manner because the Attorney General wanted some evidence of
20 what was going on, and Steve contacted me, having worked
21 with him for a while.

22 Q. Did he give you any description about the nature
23 of the work you'd be doing?

24 A. Pretty much what I've stated, documenting
25 spreading of chicken manure in the Watershed.

Gerard Hummel

April 8, 2009

47

1 Q. Did he tell you how long this project would last?

2 A. I do not recall, no.

3 Q. And what was your response to Steve at this
4 initial meeting?

5 A. I said yes, I'd be glad to do it. It sounded
6 interesting.

7 (Exhibit No. 2 was marked.)

8 Q. All right. I'm going to hand you what the court
9 reporter has marked as Exhibit No. 2. I'll represent to
10 you these are a set of blank forms that we've been able to
11 identify in the documents that were produced from the State
12 in relation to your investigation. Can you identify the
13 first page?

14 A. I do not believe that I've ever seen this first
15 page. This may have been an initial form. This -- this
16 form -- again, I may have at one time. This form does not
17 look very familiar.

18 Q. You don't recall using this form?

19 A. I don't recall this. I mean, I sneaked back to --
20 the second one looks much more familiar and the third form
21 looks -- looks very familiar. I may have used this first
22 form. This one does not look very familiar to me.

23 Q. All right. Well, we'll go over some of your
24 specific notes on forms later on. These are just blank
25 forms I've pulled out. So let's go to the first form that

Gerard Hummel

April 8, 2009

48

1 you know you recognize is that Page 2 with a Bates No.
2 OK-PL-0001034 at the bottom.

3 A. Yes. The top portion above the line looks very
4 familiar. I do not recall these check boxes, I guess,
5 would be familiar, but it's very possible that these were
6 used early on and I just don't recall this one.

7 Q. So you recall filling in the information about
8 waypoints and photographs?

9 A. Correct.

10 Q. But you're not certain about the check boxes down
11 below?

12 A. Right. And many times, I was the driver and was
13 not the person filling out the form and that may be the
14 reason for my uncertainty.

15 Q. Okay. Then let's go to the next page and tell me
16 whether you're familiar with the third page of Exhibit 2,
17 which has the Bates No. OK-PL-0005198.

18 A. This looks much more familiar.

19 Q. Do you believe you filled out a form similar to
20 5198?

21 A. Yes, ma'am.

22 MS. HILL: This will be 5.

23 (Exhibit No. 5 was marked.)

24 Q. Sir, I've handed you what the court reporter has
25 marked as Exhibit No. 5. It -- let's look at these page by

Gerard Hummel

April 8, 2009

49

1 page, if you will. You didn't sneak ahead, but I'm gonna
2 take you back to the first page.

3 A. Sure.

4 Q. All right. The first page that we're looking at
5 here is Bates No. OK-PL-0002870. And can you identify
6 whether that name up in the left-hand corner under observer
7 name would be -- refer to you?

8 A. Yes.

9 Q. Okay. And are you certain that this refers to you
10 and not Rachel Hummel?

11 A. Yes.

12 Q. How is it that you know that this refers to you
13 rather than Rachel Hummel?

14 A. Well, to my knowledge, Rachel Hummel, my daughter,
15 never was out in the field documenting what we talked about
16 earlier. Also, I recognize the name below mine as Weather,
17 Liz Weatherly, another Tulsa police officer, and this
18 appears to be her handwriting.

19 Q. So is it your testimony that you do not believe
20 any forms with the name Hummel on them from the field
21 investigations would indicate Rachel Hummel?

22 A. Yes, ma'am.

23 Q. We'll come back to the form, then. But please
24 tell me if you know what your daughter, Rachel, did on this
25 project.

Gerard Hummel

April 8, 2009

50

1 A. My understanding is that Steve Steele wanted
2 somebody to get some information from the courthouses
3 and/or some other information in Arkansas. She had been a
4 reporter in Fayetteville, and -- so he contacted her and --
5 but I've never seen any of the work that she prepared for
6 him.

7 Q. Have you ever sent Rachel any documents on this
8 matter?

9 A. Not that I recall, no.

10 Q. And she never sent you anything on this matter?

11 A. Correct.

12 Q. Did she tell you what she was doing for
13 Mr. Steele?

14 A. Some research. Steve needed some type of or
15 wanted some type of information from the courthouse over
16 there and I told him she was a reporter over there and it
17 was she not -- she knew her way around the courthouses over
18 there, and -- so we thought well, this will be handy.

19 Q. Do you know how often she did work for Mr. Steele?

20 A. I really don't.

21 Q. Do you think it was just a few occasions, maybe
22 less than five?

23 A. That's very possible. But obviously, the best
24 source would be to ask her and him. I'm sure that whatever
25 she prepared for him is available in some source.

Gerard Hummel

April 8, 2009

51

1 Q. I was trying to save her a deposition, but it
2 looks like I'm gonna have to talk to her.

3 A. I really was not privy to -- and I'd be lying if I
4 knew exactly. I just don't. I just don't.

5 Q. All right. Thank you.

6 A. Uh-huh.

7 Q. Let's go back to Exhibit 5, then.

8 A. Yes.

9 Q. We detracted. But you've identified that you were
10 out in the field this day with Liz Weatherly?

11 A. Correct.

12 Q. And it looks like Ms. Weatherly filled out the
13 information on this form; is that correct?

14 A. Yes. This is probably why I did not recognize the
15 forms since I was driving and she was writing.

16 Q. And this form is the same as the blank form we
17 just discussed that's the first page of Exhibit No. 2,
18 OK-PL-0002252; is that correct?

19 A. It appears to be, yes.

20 Q. Okay. Look at the top right-hand box and it says
21 poultry type.

22 A. Okay.

23 Q. Did you receive any training to distinguish
24 between the different types of poultry indicated in this
25 box?

1 A. Not that I recall, no.

2 Q. If you go down to about the middle of the page,
3 there's a section of boxes and the title above says could
4 be observed from public access. Do you see where I am?

5 A. Yes.

6 Q. How is it that you would determine whether a
7 structure was good, fair or in poor condition?

8 A. I mean, obviously, it's an objective or
9 subjective, rather, decision of whether -- I'm sure that
10 common sense would tell somebody whether a structure's in
11 good, fair or poor condition.

12 Q. Did you have any guidelines about what would
13 distinguish a structure that is in good condition from one
14 that is in fair?

15 A. No.

16 Q. When Ms. Weatherly filled out forms such as these,
17 do you recall discussing what she was marking down on any
18 of these checkmarked boxes?

19 A. Well, I mean, we certainly didn't have any
20 substantial discussions about whether a structure, road
21 maintenance was good, fair or poor. I mean, most of the
22 stuff is pretty self-explanatory and -- so no, I guess.

23 Q. Down over -- under observed activities, the next
24 box down from could be observed from public access, there
25 are some categories under other. Do you have an

Gerard Hummel

April 8, 2009

53

1 understanding of what stack used litter/cake refers to?

2 A. Sure.

3 Q. What is that?

4 A. Well, that's the used litter after it's taken out
5 of the barn.

6 Q. And what is your understanding of what cake is?

7 A. My understanding of cake is that is the lower
8 portion that cakes up after all the use, after the waste is
9 on the ground, that it turns into a cake-like material that
10 after a period of time has to be removed from the confined
11 feeding operation so that new litter and fresh litter can
12 be put in there.

13 Q. Is that -- your understanding of the term cake,
14 did you obtain that from your observations in the field?

15 A. You know, I can't remember if we had a discussion
16 about litter cake or not. After you've seen it for a
17 while, you can see that it's literally -- I mean, I've
18 watched people literally take it out with front-end loaders
19 and/or Bobcats. It appears to peel off like a piece of
20 cake from the floor and it's put into -- either on the
21 ground or underneath a structure where it's stored before
22 it can be spread.

23 Q. So you believe that cake is the material that's
24 taken out when a house is completely cleaned out?

25 A. That is my understanding, yes.

Gerard Hummel

April 8, 2009

54

1 Q. Have you ever heard the term cake-out?

2 A. I don't believe I have.

3 Q. Do you know of any information about the practice
4 by poultry growers to cake-out a house and what that means?

5 A. I can only imagine that a cake-out is an entire
6 clean-out of the entire -- of all litter inside the barn,
7 but I'm just guessing that.

8 Q. Because you -- you're just guessing because before
9 this assignment you really had no knowledge about
10 poultry-growing operations; is that correct?

11 A. Correct to say I had no knowledge of
12 poultry-growing operations.

13 Q. All right. So if I were to tell you that cake-out
14 is when growers just skim a portion of used litter off of
15 the bedding and take that out of the house, did you ever
16 note that happening rather than a complete clean-out?

17 A. It's very possible that we did. I do not believe
18 it got that technical of whether they were taking part of
19 it or all of it out. I'm unfamiliar with that.

20 Q. Okay. So you made no specific observations about
21 the nature of the litter that was coming out of this -- out
22 of these houses?

23 A. Well, as far as whether it was all or some of it,
24 I don't know.

25 Q. Okay. And whether it was cake litter or not cake,

Gerard Hummel

April 8, 2009

55

1 were you aware of that when you made these observations?

2 A. I guess not.

3 Q. Can you tell me under stack used litter or cake,
4 the next line below that says stacked new litter. What is
5 your understanding of what stacked new litter is?

6 A. My understanding that it's either wood shavings or
7 rice hulls.

8 Q. So this would be the clean litter before it was
9 put in the barn?

10 A. Yes.

11 Q. I'm gonna come back to these. But right now I
12 just want to identify the forms that I've found with your
13 name on them. So let's flip through here to -- one, two,
14 three four -- about the fifth page.

15 A. What's the Bates number?

16 Q. The Bates number is OK-PL-0001928.

17 A. Okay.

18 Q. And I find that your name is on this form also up
19 in the left-hand corner; is that correct?

20 A. Yes.

21 Q. And again, on this day you were out with Elizabeth
22 Weatherly?

23 A. Yes.

24 Q. All right. And this form is the same as the
25 second page in Exhibit No. 2, which is Bates marked

Gerard Hummel

April 8, 2009

56

1 OK-PL-0001034; is that correct?

2 A. It appears to be.

3 Q. All right. And who filled out the form that we're
4 looking at in Exhibit 5?

5 A. Ms. Weatherly.

6 Q. And Ms. Weatherly noted here that -- that
7 operations appeared to be in good condition; is that
8 correct?

9 A. Yes. There's a checkmark there. Yes.

10 Q. Okay. And there -- did you see any activity with
11 litter hauling, cleaning out or application that day?

12 A. I have no independent knowledge. When you look at
13 the form here, the form says what it says, that it's in
14 good condition, lights were on, fans were operating,
15 workers' vehicles were present, curtains were up, the grass
16 was mowed. There were silos, water-cooled heat exchangers,
17 private entry, a Honeysuckle sign and a couple waypoints
18 showing working houses, and one of them is a hay storage
19 facility. Other than that, I see no other information on
20 here.

21 Q. Tell me what the -- what do those waypoints refer
22 to? What are those?

23 A. The State -- we were provided GPS devices where
24 you would push a button and it would give you a waypoint
25 number and those are recorded here on this form.

Gerard Hummel

April 8, 2009

57

1 Q. Is that under Waypoint 236, is that what you're
2 referring to, the information that you filled in on this
3 form?

4 A. Yes.

5 Q. Or that Ms. Weatherly filled in. At the top of
6 this form, it says WP 1750 through 1758. What does that WP
7 refer to?

8 A. You know, I don't know. I'm trying to recall here
9 what Liz meant on that. Because the waypoint number is
10 obviously a three digit number. And, you know, it appears
11 749 and 751 are photo numbers. And I just do not recall
12 what the -- I mean, WP typically stands for waypoint. And
13 I do not recall what the 1750 through 1758 refers to.

14 Q. All right. Let's keep going. We're still talking
15 about the forms generally that you used for this project.
16 Are these the forms that you would turn in at the end of
17 the day to Mr. Steele or on the few occasions to
18 Dr. Fisher's office?

19 A. Yes.

20 Q. Did you have any occasion where you would have
21 lost any of the information that you gathered during the
22 day?

23 A. Not that I recall.

24 Q. Did you -- when you were out in the field for the
25 day, did you hold any type of information back?

Gerard Hummel

April 8, 2009

58

1 A. No.

2 Q. So is it my understanding that everything,
3 including digital film, GPS readings essentially went back
4 to Mr. Steele or Mr. -- Dr. Fisher?

5 A. Yes.

6 Q. How about oral reporting, did you do -- make any
7 oral reports to Mr. Steele?

8 A. I talked to him on a number of times, but my
9 recollection that anything that was of importance was
10 written down and turned in.

11 Q. So it was your practice that any material
12 observations you made in the field would be recorded on
13 these forms?

14 A. Yes.

15 I remember now. My belief -- backing up,
16 these four-digit waypoints, my belief is that those were
17 numbers that were on maps and that is my only belief that
18 what that could mean because the three-digit ones were what
19 we were doing. So these numbers would have been preprinted
20 on maps. This was probably during the ground truthing
21 portion.

22 Q. Do you know what those numbers on the maps
23 referred to?

24 A. My recollection is the maps had numbers next to
25 the houses, and -- so this would have had to have been --

Gerard Hummel

April 8, 2009

59

1 my belief is that this was -- we were writing down from the
2 aerial maps whether these houses were working and/or not.

3 Q. So these were used in association with identifying
4 whether poultry houses were active or not?

5 A. That is what this looks like.

6 Q. We discussed earlier litter management and methods
7 of clean-out, decaking versus full clean-out and you told
8 me you really didn't have any knowledge about decake versus
9 full clean-out. Did you come to learn about the frequency
10 that growers clean-out versus -- let's just say clean-out
11 since you don't know what cake-out is.

12 A. The -- it appeared to me from the knowledge I
13 gained at that time that most of the large clean-outs
14 appeared to occur in the springtime. I can't remember if
15 it was through -- through knowledge or just observation
16 that -- and we're talking to Steve and others about it that
17 probably there was not a lot of clean-out in the wintertime
18 because you wouldn't want to put the waste on the ground
19 when it would just sit there. I think that could burn the
20 crops. This is what I'm -- and again, I can't remember if
21 this is just putting together what I saw or learned. But
22 most of the big clean-out seemed to occur in the spring and
23 the summer.

24 Q. Is it true that the majority of your work was
25 performed in the springtime and summer?

Gerard Hummel

April 8, 2009

60

1 A. I'd say the springtime and early summer, yes.

2 Q. Did anyone tell you about when growers clean out
3 or what you just told me, is that from your observations in
4 the field?

5 A. Again, I cannot recall if it was just through my
6 observations or conversations with Steve.

7 Q. You said something just now about you don't
8 believe growers would put waste on the ground in the
9 winter. It would burn. What do you mean by waste?

10 A. Chicken manure, litter.

11 Q. So waste, you just mean the manure that's --

12 A. Correct.

13 Q. -- coming out of the birds?

14 A. Correct.

15 Q. And you're not -- by using that term, you're not
16 telling me whether it is waste in the term -- sense of the
17 term whether it's going to be used somehow or otherwise
18 disposed of?

19 A. We may be just having a semantic. I've used the
20 term chicken litter, waste, manure, exchange freely those
21 terms.

22 Q. Those are all the same things to you?

23 A. Yes.

24 Q. And in using the term -- whether you say chicken
25 litter, chicken manure or chicken waste, if you used one of

Gerard Hummel

April 8, 2009

61

1 those terms you're not trying to indicate whether that
2 substance is going to be used for fertilization or some
3 other use?

4 A. That would be an accurate statement.

5 Q. Okay. It's just what -- what came out of the
6 houses or what came out of the birds; is that correct?

7 A. Yes. Along with the clean litter that was spread
8 originally, yes.

9 Q. Okay. So when you use the term clean litter,
10 that's -- that means the rice hull and the shavings?

11 A. Correct.

12 Q. But poultry or chicken litter, chicken waste,
13 chicken manure, that's just the rice hulls and shavings
14 combined with -- with what's coming out of the poultry?

15 A. Correct.

16 Q. Okay. And you're not giving us any opinions on --
17 on the use of that -- that product by using one of these
18 terms?

19 A. That would be correct.

20 Q. All right.

21 A. If we can take a break. I've had too much coffee.

22 Q. Absolutely.

23 THE VIDEOGRAPHER: We're off the record at
24 10:14 a.m.

25 (Break was taken from 10:14 a.m. to 10:21 a.m.)

1 THE VIDEOGRAPHER: This is the beginning of
2 Tape 3 and we are on the record at 10:21 a.m.

3 Q. (BY MS. HILL) We took a break, we were discussing
4 poultry-growing operations generally. Do you have any
5 specific training or knowledge of how poultry growers
6 manage their mortality?

7 A. Their own mortality or the chickens?

8 Q. The poultry. I'm sorry.

9 A. Okay. My observation is that the dead chickens
10 are either composted in piles, incinerated and/or kept in
11 some type of container, which is I believe then processed
12 into some other product. But that's just through
13 observation.

14 Q. So the sole basis of your knowledge about a
15 poultry grower's poultry mortality management is from your
16 observations in the field?

17 A. That's correct.

18 Q. Did you have the occasion to observe a burial of
19 poultry mortality?

20 A. Well, it wasn't exactly a funeral rite. What I
21 noticed was dead chickens. The most obvious ones were dead
22 chickens in piles of manure out in the field sometimes such
23 that you needed air traffic control for the vultures
24 overhead trying to get them out of it.

25 Q. And do you believe those -- that mortality was in

Gerard Hummel

April 8, 2009

63

1 the process of being buried? My question was burying
2 mortality.

3 A. I have not seen, to my recollection, dead chickens
4 being buried.

5 Q. Do you know anything about Oklahoma or Arkansas
6 environmental laws or regulations as they relate to
7 mortality management of poultry?

8 A. I'm not familiar with those, no.

9 Q. Did you make any reports to any Oklahoma or
10 Arkansas environmental agency about your observations of
11 poultry mortality management?

12 A. As I stated earlier, all of our reports were
13 turned into Lithochimiea and I can only assume that
14 information was given to the Attorney General for the State
15 of Oklahoma and that is the extent of our reporting.

16 Q. Did you see -- strike that.

17 So you did not make any independent reports
18 to any other state or federal agency?

19 A. That's correct.

20 Q. Back to our topic of knowledge of poultry
21 operations generally, are you aware of the differences
22 between raising chickens and raising turkeys?

23 A. Not really.

24 Q. Do you have any knowledge about the differences
25 between raising chickens and raising turkeys?

Gerard Hummel

April 8, 2009

64

1 A. I'm not familiar with the differences.

2 Q. We already discussed the different types of houses
3 that might be on a poultry operation. And you're not
4 familiar with different types of houses that might be used
5 in poultry operations, are you?

6 A. The only differences is through observation. For
7 instance, some houses have what I believe is called tunnel
8 ventilation and some don't.

9 Q. As far as differences between houses, are there
10 any other observations you made other than tunnel
11 ventilation?

12 A. Not really of note, other than whether some is
13 clean or not and the grounds are clean, but no.

14 Q. You did not observe a brood house versus a
15 grow-out house, did you?

16 A. You know, I may not know what the terms are. My
17 understanding is a brood house is where the young chickens
18 are raised before being transferred to a grow-out house,
19 but I believe that's just -- from the terms you just gave
20 me, a grow-out house would make sense that they would get
21 bigger there.

22 Q. But you made no attempt to identify brood houses
23 from your observations in the Watershed?

24 A. Not that I recall.

25 Q. And you don't recall whether you'd ever heard that

Gerard Hummel

April 8, 2009

65

1 term before today, do you?

2 A. No.

3 Q. Do you have any knowledge of Oklahoma
4 environmental laws as they relate to litter or
5 transportation, litter application or litter management
6 generally?

7 A. No, I don't, other than what I've read in the
8 newspaper.

9 Q. What have you read in the newspaper about Oklahoma
10 law as it relates to litter?

11 A. Well, my general understanding is that the
12 Attorney General is alleging that what certain growers are
13 doing is against some type of environmental law and is
14 polluting the state of Oklahoma. And my belief and
15 understanding, that is what is at issue in the trial, the
16 disposal of litter, manure, waste, whatever one chooses to
17 call it.

18 Q. What do you mean by the term disposal?

19 A. Well, the removal of it from the grow-out house or
20 other house where it's generated and the method of which
21 it's disposed of.

22 Q. Do you know whether poultry litter is used as a
23 fertilizer in the Watershed?

24 A. I believe it is.

25 Q. Okay. Do you believe that that is a disposal of

Gerard Hummel

April 8, 2009

66

1 poultry litter?

2 A. Well, I mean, we can argue semantics. Obviously
3 if it's taken from one place and put somewhere else, it's
4 being disposed of. You know, whether the disposition is
5 correct, legal, right or wrong, my understanding that's
6 what is at issue in the current proceeding.

7 Q. And your understanding of this term disposal comes
8 from what you've read in the newspaper about this
9 litigation?

10 A. I'm not even sure that it's come from that. I
11 mean, it's pretty obvious from reading the stories and from
12 what we've done, that is what is at issue here.

13 Q. And you have never read any Oklahoma laws or
14 regulations as they relate to the use of poultry litter as
15 a fertilizer, have you?

16 A. That is correct.

17 Q. Have you ever read a grower's animal waste
18 management plan that's --

19 A. No.

20 Q. Okay. Have you ever looked at a nutrient
21 management plan?

22 A. No.

23 Q. Do you know what animal waste management plans or
24 nutrient management plans are?

25 A. Well, I can only assume from the -- the words in

Gerard Hummel

April 8, 2009

67

1 the name that you just gave that there's -- that has some
2 type of plan, law, regulation or whatnot as to how much of
3 a certain type of substance can be put on -- on the ground.
4 From my biology training, I mean, you know, plants need
5 nitrogen, phosphorous and so forth. And I can only imagine
6 these plans deal with the amount of certain substances and
7 how much can be put in the ground as opposed to how much
8 will run off and can be used by the location.

9 Q. Do you have any specific training in phosphates
10 versus phosphorous?

11 A. No.

12 Q. Do you have any special training in the nature of
13 the phosphorous compounds that may be contained in poultry
14 litter?

15 A. No.

16 Q. Do you have any knowledge about or training in the
17 amount of nutrients that plants may need to grow?

18 A. Other than what I received in college, no.

19 Q. Are you a soil scientist?

20 A. No.

21 Q. Have you ever taken any classes in soil science?

22 A. Perhaps in college there was -- that was touched
23 on in some of my biology courses, but I have no independent
24 recollection.

25 Q. All right. You have no knowledge of Oklahoma

Gerard Hummel

April 8, 2009

68

1 rules, laws, regulations relating to the land application
2 of poultry litter and you've not reviewed any grower's
3 animal waste management plans or nutrient management plans
4 relating to the land application of poultry litter; is that
5 correct?

6 A. Yes.

7 Q. So when you use the term disposal, you're not
8 giving us any kind of opinion about whether that is an
9 improper use of poultry litter, are you?

10 A. No. It appeared in some instances just from a
11 layman's perspective that it seems to be pretty excessive
12 in some instances, but that would just be from a layman's
13 perspective.

14 Q. You just saw them use a lot of litter; is that
15 what you're telling me?

16 A. I'm saying there's several locations where it
17 appeared that a ten-ton truck was dumping litter on two to
18 five acres of land for eight hours a day. And just from a
19 homeowner's perspective fertilizing the yard, I just cannot
20 imagine that the ground could possibly use that much
21 fertilizer and that it had to -- again from a layman's
22 perspective -- be way too much.

23 Q. You have no technical training in what is needed
24 for those crops?

25 A. That is correct.

Gerard Hummel

April 8, 2009

69

1 Q. And you did not run any tests on any of the
2 substances that were applied on those fields?

3 A. That's correct.

4 Q. Did you go back and visit these fields later on in
5 the season to see how they were growing?

6 A. I don't know if I made specific visits. There
7 were several, numerous times, I would probably say, where
8 you could see in the days and weeks after litter was spread
9 that the ground, wheat or grass or whatever appeared to be
10 severely burned and other areas that appeared to be
11 defoliated where there was a large amount of litter that
12 was -- the runoff was occurring.

13 Q. Did you ever make any observations -- strike that.

14 These several areas that you testified
15 appeared to be burned, those areas where you actually
16 observed land application taking place?

17 A. Yes.

18 Q. And how long after the land application did you
19 make this observation about the burned area?

20 A. I would have to review notes. My recollection, as
21 I stated earlier, that it was within days or -- or weeks.

22 Q. So it's your testimony that you believe days or
23 weeks after you saw initial land application, you may have
24 observed some burnt areas?

25 A. That's correct.

Gerard Hummel

April 8, 2009

70

1 Q. In these burnt areas, what was the nature of the
2 crop that they were growing?

3 A. I do not know.

4 Q. Do you think it was a grass?

5 A. I just don't recall at this point.

6 Q. Did you make note of warm season -- season versus
7 cool season grasses?

8 A. I have never written down the words warm season or
9 cool season grasses.

10 Q. Are you aware that there are warm season and cool
11 season grasses?

12 A. Yes, of course.

13 Q. And that the color of those grasses vary depending
14 on the time of the year?

15 A. Yes.

16 Q. But you made no observations about the nature of
17 the crop or the grasses that were being fertilized?

18 A. When I say it was burned -- and there's many
19 photographs of this we took where the surrounding grass was
20 or growing -- whatever was growing was all green and it was
21 very obvious where some substance or litter had been
22 applied in such a rate where it seemed obvious that
23 whatever was applied to the ground turned everything yellow
24 and everything surrounding it was green.

25 Q. But you did not make any observations or notations

Gerard Hummel

April 8, 2009

71

1 about whether those were different types of grasses from
2 one field to another?

3 A. That is correct.

4 Q. You understand that some grasses can be yellow at
5 the same time other grasses are green, regardless of
6 fertilization practices?

7 A. Right. I understand that.

8 Q. And did you make any notes about -- and you did
9 not note the types of grasses in these fields on your -- on
10 your reports?

11 A. Correct.

12 Q. Would that have been material to your
13 observations?

14 A. I suppose one could say that this grass was
15 supposed to be green from a layman's perspective. It
16 appeared that what was put on the ground was causing it to
17 burn, just like a homeowner, as I've done before, put down
18 too much fertilizer and burned my lawn.

19 Q. But you did not do any investigation into the
20 specific nature of what was applied on that ground?

21 A. Other than when I saw poultry waste being put
22 down.

23 Q. You did not take any soil tests?

24 A. That is correct.

25 Q. You did not take any poultry litter -- any tests

Gerard Hummel

April 8, 2009

72

1 of the substances put on the ground?

2 A. That is correct.

3 Q. You didn't note what the nature of the crop or the
4 grass was receiving the fertilization?

5 A. Correct.

6 Q. And you didn't note the nature of the crops around
7 that field that received the fertilization; is that
8 correct?

9 A. That is -- that is correct.

10 Q. And again, you didn't review any of the animal
11 waste management plans or nutrient management plans that
12 might provide for fertilization or application?

13 A. Correct.

14 Q. Are you familiar with any of the Arkansas laws
15 relating to litter transportation or litter application?

16 A. I am not familiar with them.

17 Q. Are you familiar with any Oklahoma or Arkansas
18 laws on the use of commercial fertilizers?

19 A. I've not reviewed any such laws or regulations,
20 rules or otherwise.

21 Q. Did you make any observations of relating to the
22 use of commercial fertilizer in the Watershed?

23 A. I believe there were several times we saw some
24 type of commercial fertilizer being applied to the field.
25 Those were noted. But I do not recall at this point types

Gerard Hummel

April 8, 2009

73

1 or locations without reviewing prior documentation.

2 Q. Did part of your project ever include going out
3 and seeking fertilization pictures and observations of
4 fertilization other than fertilization using poultry
5 litter?

6 A. Not that I'm aware of.

7 Q. So if you happened to -- upon some commercial
8 fertilizer or some other type of manure being used, it
9 would have just been perchance; is that correct?

10 A. I'd say that's a correct statement.

11 Q. Okay. Do you have any scientific training in the
12 fate and transport of chemicals or nutrients?

13 A. I'm sorry. The word before transport?

14 Q. Fate.

15 A. The fate?

16 Q. F-A-T-E.

17 A. The fate of --

18 Q. Fate and transport.

19 A. Okay. I've never heard those two words used
20 together.

21 Q. All right. Have you ever done any environmentally
22 -- environmental sampling of soil?

23 A. No.

24 Q. Water?

25 A. No.

Gerard Hummel

April 8, 2009

74

1 Q. Litter?

2 A. No.

3 Q. Did you take any litter samples during your work
4 on this project?

5 A. Not intentionally.

6 Q. Unintentionally, did you obtain litter samples?

7 A. Yes. My truck was slimed a few times.

8 Q. Tell me what you mean by your truck was slimed.

9 A. Oh, we'd be parked with -- next to a field where a
10 spreader truck was spreading waste and it would get thrown
11 onto my truck or in the bed of my truck and that's what I
12 was talking about.

13 Q. Did you turn any of the material that was on your
14 truck in to Dr. Fisher or anyone else for them to study?

15 A. No. I don't recall doing that.

16 Q. How did you clean your truck?

17 A. Well, a lot of the dry stuff would blow off. Like
18 most people, take it to a car wash or wash it myself.

19 Q. So you didn't take any special precautions when
20 handling the materials that were put on your truck from
21 this land application?

22 A. Well, I never handled them, per se.

23 Q. You just went to a car wash?

24 A. Sure.

25 Q. Okay.

Gerard Hummel

April 8, 2009

75

1 A. I mean, there was -- I doubt there was any litter
2 on my vehicle by the time I drove back to Oklahoma.

3 Q. So you didn't use any special procedures for the
4 removal of the litter from your truck?

5 A. Well, if there was any litter on my truck -- I may
6 have been a little facetious and humorous earlier.
7 Whatever went on, I'm sure it probably blew off during the
8 travels.

9 Q. You didn't engage in any kind of decontamination
10 procedures after you were out in the field?

11 A. That's correct.

12 Q. And you didn't have any special gear such as gear
13 you might use in a Hazmat situation when you were out in
14 the field, did you?

15 A. That's correct.

16 Q. It's my understanding from Mr. Steele's testimony
17 that the selection of the locations where you made your
18 observations were made by others, not you.

19 A. My understanding that -- my recollection rather is
20 that Steve would tell us what areas to concentrate in.
21 Where he received his instructions, I would only speculate
22 was from the attorneys and/or scientists.

23 Q. So in the morning, you received your instructions
24 from Steve Steele himself about your activities for the
25 day?

Gerard Hummel

April 8, 2009

76

1 A. Yes, ma'am.

2 Q. Did you ever receive any comments back on
3 information you filled out on your form and maybe
4 additional information or correction or other comments
5 about how to fill out the forms?

6 A. I'm sure there was at some time. I do not recall
7 the specificity. I remember one time there was a video
8 that Liz and I took. It was in Arkansas. Saying that the
9 video was very good, it was useful. But I do not recall
10 the venue in which it was used.

11 Q. Do you recall what the video was of?

12 A. The video was of a field that had -- that appeared
13 to be very burned and -- and had spreader trucks spreading
14 manure on it.

15 Q. What time of year did you take this video?

16 A. My recollection that it was in 2005. But other
17 than that, I would have to look at the documentation for
18 the date and time.

19 Q. And did you return to this location at any time
20 after you took this video?

21 A. Oh, yes. I was by that location many times.

22 Q. Where was that location?

23 A. If I had a map in front of me. It was southwest
24 of -- oh, what's the name of the town? I'd have to -- the
25 name of the town escapes me. It's north of Highway 412.

Gerard Hummel

April 8, 2009

77

1 I'd just have to look at a map. I cannot independently
2 remember the name of the town right now.

3 Q. I might get one at a break. Is it in Oklahoma?

4 A. It's in Arkansas.

5 Q. Okay. North of Siloam Springs or further east?

6 A. It's north of -- it's northeast of Siloam Springs.

7 Q. Was this an area that you regularly surveilled?

8 A. Yes, I would say that's correct.

9 Q. What was the purpose of going to this area on a
10 regular basis?

11 A. Well, like any other business, when you have
12 success in a certain location, you tend to go back to that
13 location.

14 Q. And the success that you had in that location was
15 finding land application?

16 A. Correct.

17 Q. And was this an area where you often observed land
18 application?

19 A. There was much land application in the entire area
20 around Siloam Springs.

21 Q. Do you recall any of the names of the growers who
22 you watched in this area?

23 A. I do not at this point recall the names.

24 Q. Were there any particular growers or fields that
25 you visited repeatedly?

Gerard Hummel

April 8, 2009

78

1 A. One more time, please.

2 Q. Any particular growers' operations that you would
3 visit repeatedly?

4 A. I would say yes. I'd have to look on a map to say
5 which one and where, but yes.

6 Q. Okay. And do you recall who those growers were
7 who you went back to see time and --

8 A. No. I would have to look at notes. It's been
9 several years and I don't recall the names.

10 Q. Do you recall whether this was just part of your
11 trying to document land application or was there a special
12 reason you were watching these particular growers?

13 A. It was to document land application.

14 Q. So no one gave you instructions to give any sort
15 of grower special attention and make sure you document what
16 they're doing?

17 A. Not that I recall.

18 Q. Okay. How about any operations associated with
19 any of the poultry companies who are defendants in this
20 matter?

21 A. I don't quite understand what you're --

22 Q. Were you asked to document in particular
23 operations for one of the defendants in this company? Were
24 you told go out and seek out and follow Cargill growers?

25 A. No, I do not remember any specific grower having

Gerard Hummel

April 8, 2009

79

1 anymore documentation or interest than any others.

2 Q. You don't recall anything in particular, then,
3 about the observations you made of one -- of one company's
4 contract grower versus another?

5 A. No. I mean, there appeared to be more of Tyson
6 houses than -- than others. I think just by sheer numbers,
7 I saw more Tyson signs. Cargill, I don't remember as many
8 Cargill. I guess I would have to say Tyson was No. 1 and
9 then -- geez. I remember Tyson being No. 1. I'd have to
10 look back at my notes as to who has more in a certain area.
11 I seem to recall that some were -- some integrators were
12 more prevalent in certain areas than others and I would
13 only speculate on the reasoning for that.

14 Q. But you didn't receive any special instructions to
15 look at operations associated with one defendant or
16 another?

17 A. Correct. I do not remember any instructions or
18 whatever saying look at this person or company more than
19 any other.

20 Q. And the decisions about where you were going to go
21 for the day and the observations you were -- made, those
22 were made by others; is that correct?

23 A. Yes.

24 Q. You told me that you heard back that a video you
25 took was good and useful. Who -- who told you that it was

Gerard Hummel

April 8, 2009

80

1 useful?

2 A. I believe Steve did.

3 Q. Do you know what the video was used for?

4 A. I do not recall.

5 Q. Did you receive any negative comments from Steve
6 on any of the reporting that you did in the field?

7 A. Not that I recall.

8 Q. Any negative comments from anyone on the team
9 about the nature of the reporting?

10 A. I do not recall any.

11 Q. Any adjustments that needed to be made in the
12 nature of the information that was recorded?

13 A. There may have been, but I just don't recall at
14 this point.

15 Q. And this video that you took of the land
16 application area that you testified appeared to be burned,
17 did -- did you document the nature of the crops growing in
18 that field?

19 A. I do not recall.

20 Q. Do you recall what the nature of the crop was that
21 was being grown there?

22 A. Again, I do not know or recall -- remember what
23 type of crop that was being grown at that location.

24 Q. Any material information, you would record that on
25 the forms, though?

Gerard Hummel

April 8, 2009

81

1 A. That is my recollection. I don't -- I do not
2 recall if anyone wrote down the nature of the crop, per se,
3 but it may have been. Again, I did not often do the
4 writing.

5 Q. And were you the person actually taking this
6 videotape? Did you operate the video camera?

7 A. No. I believe Liz took the tape.

8 Q. What did you do?

9 A. I was behind the wheel of the vehicle.

10 Q. And again, this -- you're not aware of this
11 person's nutrient management plan or animal waste
12 management plan?

13 A. That is correct.

14 Q. And you did not test any of the material that was
15 being applied on this property?

16 A. Yes. As I stated earlier, I have never tested
17 litter, soil, water or any of it.

18 Q. And do you know the type of litter that was being
19 applied on this field, whether --

20 A. I do not recall.

21 Q. When you were observing land application of
22 litter, did you ever attempt to measure or estimate the
23 rate of application?

24 A. Well, insofar as estimating the size of the truck,
25 how much it would likely hold and the number -- and the

Gerard Hummel

April 8, 2009

82

1 number of trips and/or cycles taken. Other than that, no.

2 Q. And as you testified earlier, you're not certain
3 how those trucks are calibrated for land application?

4 A. That's correct.

5 Q. In any of your observations of land application,
6 did you term the type of litter that was being applied?

7 A. Well, I mean, for instance, if it came from a
8 turkey grower where you could see turkeys, one would make
9 the assumption that it's turkey litter and the same as if
10 it -- if one had seen chickens.

11 Q. If it came from a chicken operation, would you be
12 able to determine whether it was from a broiler or pullet
13 operation?

14 A. I'm not really sure what the terms broiler and
15 pullet mean.

16 Q. And likewise, we've already discussed brood litter
17 versus litter from a grow-out house. You wouldn't be able
18 to determine which litter was being applied?

19 A. That's correct.

20 Q. So you might know generally the type of litter if
21 you followed it from the point of origination; is that your
22 testimony?

23 A. Correct.

24 Q. And Steve told us yesterday if it were raining,
25 you-all would not go out for the day. Is that your

1 understanding?

2 A. That was a general observation. There was a few
3 times that it rained while we were over there. I think our
4 general belief was that the spreaders would not spread.
5 They couldn't get into the fields if it was raining. They
6 provided us wrong a few times. We saw people spreading
7 during the rain. Sometimes storms would pop up. But I
8 think as a general observation, that it was -- if it was --
9 if it had poured and poured and poured rain for a few days,
10 that -- and the ground was very soggy, common sense would
11 dictate that you're not gonna put a 20-ton truck in a field
12 and be stuck up to the gills in mud.

13 Q. Did you ever measure the distance from any land
14 application to any type of water body?

15 A. There was some times we did, yes.

16 Q. Tell me about when you did that work.

17 A. Well, if you saw a body of water nearby, you would
18 document the photo and/or in writing the probable distance
19 between where the litter was being spread and the body of
20 water.

21 Q. Did you evaluate any of the other conditions of
22 the land between the land application and the water body?

23 A. I don't remember exactly. I think there were
24 several times where we documented that it was downhill.
25 And that if there were runoff, it would go into the body of

Gerard Hummel

April 8, 2009

84

1 water. I think I saw a few times where I saw the litter
2 actually being thrown into the water, just from the
3 spreader truck being so close to the body of water.

4 Q. Was that a farm pond?

5 A. I don't remember farm pond. I remember streams
6 and/or tributaries of the Illinois River. Again, I'd have
7 to look at the map to remember the name. I haven't been
8 over there in a couple of years.

9 Q. Do you believe that that was an improper activity?

10 A. I doubt the Court is interested in my opinion on
11 whether it was improper or not. From a layman's
12 perspective, it seems like it's something that one wouldn't
13 want to do. But again, I doubt the Court is concerned with
14 my opinion.

15 Q. How did you note that activity?

16 A. On forms.

17 Q. Any other reporting of such activity?

18 A. No, other than my knowledge that everything we're
19 doing was eventually -- the Attorney General is the top law
20 enforcement officer in the state of Oklahoma. I don't see
21 how we could have done anything more.

22 Q. You didn't report this incident to the Department
23 of Agriculture or Oklahoma Scenic Rivers Commission?

24 A. That is correct.

25 Q. Did you ask the person to stop the activity that

Gerard Hummel

April 8, 2009

85

1 they were doing by throwing this material into the water?

2 A. No.

3 Q. Did you report the incident to any local law
4 enforcement?

5 A. No.

6 Q. And again, because you've not reviewed that
7 person's animal waste management plan or the laws of
8 Oklahoma or Arkansas as they relate to land application,
9 you can't give us any kind of opinion about whether there
10 was any unlawful activity or not?

11 A. That is correct.

12 Q. If you believed it was unlawful, you would have
13 reported it?

14 A. I cannot see an instance where a Tulsa police
15 officer or any police officer is going to call a county
16 sheriff and say I think they're putting too much poultry
17 waste on this field. I don't have the training, knowledge
18 and I doubt that a deputy and/or law enforcement person is
19 going to have the knowledge to take any action on that or
20 not. I just don't believe that's going to occur.

21 Q. So you didn't think it was necessary to let anyone
22 else know other than the note on your form that you saw
23 someone throwing in a water body that was a tributary to
24 the stream or streams?

25 A. I believe that this information going to the

Gerard Hummel

April 8, 2009

86

1 Attorney General of the state of Oklahoma is the best way
2 for this information to be recorded.

3 Q. Sir, I'm sorry. That was not my question.

4 A. Okay. Then maybe I misunderstood.

5 MS. HILL: Can you read my question back?

6 (Requested portion was read.)

7 Q. Let me start again. That's okay.

8 When you observed this incident of litter
9 being thrown into a river, stream or tributary of the
10 Illinois River Watershed, did you make any other report
11 other than the report on the forms that we've talked about
12 today?

13 A. No.

14 Q. Did you think it was necessary to make any other
15 report?

16 A. No. I think, again, what we were doing was the
17 best way for this information to be reported.

18 Q. Do you have any knowledge what was done with your
19 forms and reports once you turned them back in to Steve
20 Steele or Dr. Fisher?

21 A. I would only speculate. I have no specific
22 knowledge.

23 Q. And you have no knowledge of how any information
24 on that form has been compiled, communicated or transferred
25 to the chief law enforcement for the state of Oklahoma?

Gerard Hummel

April 8, 2009

87

1 A. That's correct.

2 Q. So it's just your assumption that this information
3 would -- would be passed along to the proper persons?

4 A. Yes.

5 Q. And nothing about these activities caused you
6 enough concern that you made any other special note or
7 special report?

8 MR. WOMACK: I'll object to the form.

9 MS. HILL: You may answer.

10 MR. WOMACK: Go ahead and answer.

11 A. That is correct.

12 Q. (BY MS. HILL) Is it your testimony that you saw
13 application trucks in the field when storms may have
14 arisen?

15 A. Yes.

16 Q. And what do you recall about those situations?
17 What do you know?

18 A. Well, I recall trucks spreading litter and it
19 started raining and they continued their activities.

20 Q. How long did you watch these trucks?

21 A. I'd have to look at the notes. Sometimes you
22 watch a truck unload or spread its entire load, other times
23 just for a partial period that they were spreading their
24 loads.

25 Q. Did you go to the edge of those fields to observe

1 what was happening?

2 A. Did -- I'm not -- let me answer and see if this is
3 responsive. Many times we were near the edge of the fields
4 where the product was being spread.

5 Q. Okay. And you didn't collect any edge-of-field
6 samples?

7 A. Yes.

8 Q. Okay. And you don't have any opinions about the
9 fate and transport of anything on that field going anywhere
10 on that field or off that field; is that correct?

11 A. Do I have opinions about --

12 Q. The fate and transport of those materials on that
13 field that were land applied.

14 A. I have an opinion about whether it might have been
15 too much. But, again, I don't know if my opinion's worth
16 much to anybody. I don't think I have enough initials
17 after my name to make a constructive comment on that.

18 Q. I appreciate that. And we've discussed the
19 too-much issue. I want to make sure that you're not gonna
20 testify at this trial about the movement or -- or
21 disposition of those -- those materials once they're put on
22 the ground and make sure that we've talked to you about you
23 haven't had any training in that.

24 A. Right.

25 Q. I just want to make sure --

Gerard Hummel

April 8, 2009

89

1 A. Sure.

2 Q. -- you're not gonna tell us anything about that.

3 A. Yeah. All I know is what I've told you.

4 Q. Okay. So we're not gonna hear anything from you
5 about the movement of anything applied on these grounds --

6 A. When you say the movement, are you talking about
7 trucking it to the certain locations?

8 Q. No. I'm talking about when the litter reaches the
9 ground, what happens to it then.

10 A. Now, I understand what you're talking about. I
11 can only assume it gets moved in the ground somehow through
12 rain, osmosis, but I have no knowledge or training about
13 that.

14 Q. Where it goes once it reaches the ground, we're
15 not going to hear that from you?

16 A. Correct. Now I understand what you were talking
17 about, fate and movement. I get it now.

18 Q. I'm sorry it took me a little while to get there,
19 too.

20 A. Right.

21 Q. Thank you.

22 And -- so the same would be -- whether the
23 litter moves through the ground, whether it moves, you
24 know, to an adjacent field, those are not areas that you're
25 going to give us any testimony regarding?

Gerard Hummel

April 8, 2009

90

1 A. I have no knowledge of it other than what a
2 layperson would have.

3 Q. So at trial, we're not going to hear anything
4 about -- from you about runoff, then?

5 A. I have no specific training, knowledge, abilities
6 other than what anyone might think about putting fertilizer
7 or any other substance on the ground. I just have no
8 knowledge.

9 Q. Okay. Did you watch any of the State's
10 consultants or experts do any sampling in the field?

11 A. No. I think there were several times that some of
12 the other officers might have gone with people out in the
13 field, but I was not present on any of those times.

14 Q. You believe some of the officers may have been
15 present for some sampling activities?

16 A. My recollection is that there were dates where I
17 couldn't or didn't want to go where they took some
18 scientists or some people over there to get some samples,
19 but I was not present for any of those.

20 Q. And you haven't met with any of the other
21 scientists associated with this case other than your
22 meetings with Dr. Fisher that we've discussed?

23 A. That's correct.

24 Q. I've also heard testimony that if a team was
25 following a truck and some litter fell off, they might pick

Gerard Hummel

April 8, 2009

91

1 up a sample and turn that back in. Did you ever do that?

2 A. I never did.

3 Q. Did your team ever do that?

4 A. I was never present when that occurred.

5 Q. Did you make any observation and notes about the
6 transportation of hay into or out of the Illinois River
7 Watershed?

8 A. Not that I recall.

9 Q. Did you make any notes about cattle grazing
10 activities in the Watershed?

11 A. I may have written down whether cattle were
12 present in a field, but I don't have any specific memory
13 other than that.

14 Q. And you observed cattle present in these fields?

15 A. Many times. I saw cattle being hit with manure or
16 litter, whatever, manure as it was being spread. The
17 spreader truck would be in the field the same time as
18 cattle.

19 Q. Is there anything about that that causes you
20 concern or needed to be noted?

21 A. I think we wrote it down. Again, I don't have
22 enough knowledge about bovine health as to whether that
23 might be a good idea or not.

24 Q. Did you see a lot of cattle in the Watershed?

25 A. Oh, sure.

Gerard Hummel

April 8, 2009

92

1 Q. Did you do any kind of inventory of cattle in the
2 Watershed?

3 A. No. I haven't done any cow tipping or counting.

4 Q. Did you observe any cows near or adjacent to water
5 bodies in the Illinois River Watershed?

6 A. Oh, sure.

7 Q. Did you see them in any water bodies in the
8 Illinois River Watershed?

9 A. I saw them in farm ponds a bunch of times.

10 Q. Did you make any attempt to observe or document
11 any of the recreational uses of the Illinois River
12 Watershed?

13 A. Oh, sure. I saw many times people recreating in
14 or around the river.

15 Q. Was that something that you were to note and
16 document?

17 A. I don't recall any specific instructions on that
18 issue.

19 Q. All right. Did -- were you to note and document
20 any observations about the stream banks and their
21 condition?

22 A. There were several times we took pictures of water
23 bodies with an extreme amount of algae in it, but I don't
24 recall any instructions on stream banks.

25 Q. So you didn't receive any instructions on

1 documenting stream bank erosion?

2 A. That's correct.

3 Q. Did you receive instructions about documenting
4 algae?

5 A. I think Steve talked to us about that and any
6 number of times we took pictures thereof.

7 Q. And what did he tell you?

8 A. I don't remember the specifics. I remember a
9 conversation saying if you see something that appears to be
10 laden with bacteria, to take a picture and document the
11 location.

12 Q. And that was in your notes and observations of
13 algae, is that what these instructions related to?

14 A. I'd say that's a fair statement.

15 Q. Okay. Did you receive any -- any instructions or
16 training on how to observe areas laden with bacteria?

17 A. No.

18 Q. What -- can you describe for me what -- what you
19 mean by what you would see or what you mean by an area
20 laden with bacteria?

21 A. I never used the word laden with bacteria.

22 Q. All right. If you said bacteria a few -- a few
23 questions ago, did you mean algae?

24 A. If I said bacteria, I meant algae, yes.

25 Q. Good. I was a little confused.

Gerard Hummel

April 8, 2009

94

1 A. Okay. Then we both were.

2 Q. Okay. So then let's start again. Did you have
3 any training on identifying areas that were laden with
4 algae?

5 A. No. I had no training other than, you know, if
6 you see a bunch of algae, document it.

7 Q. And -- so you made no notes or didn't -- well, let
8 me ask it this way. Did you receive any instruction or
9 training about bacteria generally?

10 A. No.

11 Q. You made no observations about bacteria?

12 A. That is -- that is correct.

13 Q. Do you have any training in plant growth and water
14 bodies or algae production?

15 A. Other than my college training and training in
16 botany and microbiology, no. That's been many years ago.

17 Q. If you saw something that looked like algae in a
18 water body, you took the picture; is that the extent of --

19 A. I'd say it is.

20 Q. -- what you did on this project?

21 A. I'd say that's correct.

22 Q. Did you alert anyone to make any special notation
23 for follow-up for testing or sampling?

24 A. No. My assumption was that if after someone with
25 a lot more initials after me reviewed the picture and

1 thought it was important, that that would occur.

2 Q. And you have no knowledge about the handling of
3 your notes or production of the pictures or distribution or
4 how that information was transmitted to other experts in
5 the case, other scientists or attorneys or the Attorney
6 General; correct?

7 A. That is correct.

8 Q. When you were out in the Watershed, did you make
9 any attempt to observe or document any of the septic
10 systems that were used by the persons living in the
11 Watershed?

12 A. I do not recall any documentation of septic
13 systems.

14 Q. How about waste water treatment facilities?

15 A. I don't remember any specific instructions or
16 whether we -- I'm sure we saw some along the way, but that
17 doesn't ring a bell at all.

18 Q. Did you attempt to make any observation or
19 documentation of any urban runoff?

20 A. No.

21 MS. HILL: Mark this as 3.

22 (Exhibit No. 3 was marked.)

23 Q. Sir, I'm gonna hand you a packet of material
24 that's marked as Exhibit 3.

25 A. Okay.

Gerard Hummel

April 8, 2009

96

1 Q. Take a look at the first page. And under the
2 notes, the second paragraph, the last sentence says,
3 process was documented by Team 2. Can you flip through
4 these materials and I believe on Page OK-PL-00012764.

5 A. Okay.

6 Q. Is your name on that?

7 A. Yeah.

8 Q. Can you determine whether you were Team 2 that
9 day?

10 A. Well, I do not know whether we were Team 2, 1 or
11 -- I cannot tell from this sheet.

12 Q. Okay. Can you read the first page? Take a look
13 at these notes and your note on Bates No. 12764 and tell me
14 if you remember this incident.

15 A. Let me read it. I do not remember it
16 independently. This sounds like something which we
17 documented a lot of times. It looks like Huff and Steele
18 first saw the location and Mike Nance and I -- looking at
19 the waypoints -- I have no independent recollection of
20 this.

21 Q. All right. Let's turn to Page 12764, then.

22 A. That's the page I'm looking at.

23 Q. Okay. Let's go there.

24 A. Okay.

25 Q. Can you tell me why it is that you didn't

Gerard Hummel

April 8, 2009

97

1 photograph the activities that you're observing on this
2 note?

3 A. Well, why we did not? Was that your question?

4 Q. Yes.

5 A. Well, I see at the top there are photo frame
6 numbers, so it appears to me that photographs were taken.

7 Q. All right. Can you explain for me, then, the last
8 note there?

9 A. The one that says could not photograph all three
10 trucks without stopping and spending significant time?

11 Q. Yes.

12 A. I think it's fairly obvious. We didn't want to
13 stop and make ourselves too -- too noticeable.

14 Q. How long did you watch this land application?

15 A. Again, I have no independent knowledge and the
16 page does not -- does not say.

17 Q. Generally on these incidents, how long would you
18 spend watching an application taking place?

19 A. It would depend on whether, you know, we could
20 watch it from an unobtrusive location or whether you were
21 very visible.

22 Q. And is this a situation -- does it appear that you
23 would have been very visible?

24 A. Again, I don't -- I don't remember this
25 independently. Without looking at a map, GPS points, I

Gerard Hummel

April 8, 2009

98

1 just cannot tell.

2 Q. I guess I'm trying to understand why you couldn't
3 stop and spend more time observing this and documenting
4 this. What was -- what was the issue here?

5 A. Well, the issue here is that all others -- we did
6 not want to be very obvious about what you were doing.

7 Q. Were those instructions that you received from the
8 team at training?

9 A. I don't remember if it was instruction or not.
10 But our experience is many people over there were unhappy
11 with what they were trying, tried to box us in, tried to
12 confront us and I understand that, and -- so we tried to be
13 unobtrusive.

14 Q. Did you ever make an attempt to obtain information
15 from interviewing one of these applicators?

16 A. The only personal contact I had with anybody
17 involved in the industry was earlier when we were talking
18 to the person referred to as Mr. Barnes and during subpoena
19 service. Other than that, I've had no personal contact
20 other than the confrontations I talked about.

21 Q. So when you were making these observations on land
22 application, it was your goal to go unnoticed as much as
23 possible?

24 A. Of course.

25 MS. HILL: Mark this one 4.

1 (Exhibit No. 4 was marked.)

2 Q. I'm gonna hand you what the court reporter has
3 marked as Exhibit 4. Take a few minutes to look at these
4 documents and I'm gonna ask you some questions about this.
5 Let's take a look at the third photo, which is
6 OK-PL-0009581.

7 A. Okay.

8 Q. You can refer back to the front page. What is
9 being described in this picture?

10 A. Well, it appears to be a confined animal feeding
11 operation with a silo and curtains.

12 Q. Do you see the note about the walkway joining the
13 houses?

14 A. Yes.

15 Q. Is that walkway indicated in this Picture 9581?

16 A. It appears to be in the center back of the
17 photograph.

18 Q. Do you know what that walkway is for?

19 A. I've often wondered. My experience and
20 observation is that turkey houses have walkways in between
21 them and chickens don't, but I don't know the reasoning for
22 that.

23 Q. All right. In your response earlier, you referred
24 to confined animal feeding operations.

25 A. Uh-huh.

Gerard Hummel

April 8, 2009

100

1 Q. Do you have a definition for that? Can you tell
2 me what that is?

3 A. Only from I saw that term in the newspaper one
4 time where somebody in the article -- and I can't remember
5 who was talking about confined animal feeding operations.
6 Other than that, I really have no knowledge.

7 Q. Do you know if that is a term that's defined by
8 any laws?

9 A. I can only imagine. It sounds like a government
10 acronym to me.

11 Q. When you say CAFO, you're not giving us any
12 opinion about whether an operation fits a definition of
13 CAFO under any law, are you?

14 A. No. It just sounds like a federal -- something
15 that some bureaucrat would come up with.

16 Q. It just sounds good?

17 A. I just read that and there's another government.
18 Working for the government, I understand some of those
19 things, so --

20 Q. And you used it for us here today.

21 A. Right. It just stuck in my mind as a -- but I
22 really have no knowledge of the regulations, rules,
23 postulations or anything associated with CAFO, as you say.

24 Q. Okay. Let's go to --

25 A. Are you done with this one?

Gerard Hummel

April 8, 2009

101

1 Q. Yes.

2 (Exhibit No. 6 was marked.)

3 Sir, I'm gonna hand you what I've marked --
4 had the court reporter mark as Exhibit No. 6. Take a
5 minute to read that and I'm gonna ask you some questions.

6 A. Okay.

7 Q. Who did the actual writing on this form that's the
8 first page of Exhibit 6?

9 A. Ms. Weatherly.

10 Q. Can you decipher her first note there under notes?

11 A. Open chicken or turkey litter piles adjacent to
12 garden, feathers. It sounds like she's describing the
13 picture 8171 where there's a pile of litter adjacent to the
14 garden. 8172 is a closer-up picture of the same thing. It
15 sounds like that's what she's describing.

16 Q. All right. So you believe those first few words
17 are open chicken or turkey litter?

18 A. Correct.

19 Q. Okay. Thank you.

20 Do you have any independent recollection of
21 this incident?

22 A. I really don't.

23 Q. From your forms and notations here, can you tell
24 where this litter came from?

25 A. Not from these notes.

Gerard Hummel

April 8, 2009

102

1 Q. You don't know where this litter came from?

2 A. I have no independent recollection of -- I doubt
3 you could say for sure if it came from the CAFO, as you
4 would say, or not.

5 Q. When you say CAFO there, are you referring to the
6 Keith and Jerry Mitchell Cargill sign in Note 2 -- Note 2?
7 The second note there says Keith and Jerry Mitchell Cargill
8 sign across the road from open litter; is that what you're
9 referring to when you say the CAFO here?

10 A. Correction -- yes, correct. 8174, you can see the
11 house.

12 Q. So on this -- this form, you don't know the source
13 of this litter, whether it's from across the road or not?

14 A. That's what it appears to be, yes.

15 Q. All right. Do you know what this litter was used
16 for?

17 A. I couldn't possibly tell you.

18 Q. All right. Did you return to this location after
19 this observation?

20 A. I may have. Without looking at a map or the
21 waypoints, I don't recall where 683 road is. This has been
22 almost three years ago and I just have no independent
23 recollection.

24 Q. Sir, I'm gonna represent for you I've been through
25 all your notes that have anything relating to a Cargill

1 contract grower. And if I don't find a note that indicates
2 that you went back to this location, am I safe to assume
3 that you did not? If you went back to that location, there
4 would be a note for it?

5 A. Well, if we documented anything at that location,
6 there would be a note.

7 (Mr. Mirkes and Mr. Chadick entered the
8 deposition.)

9 Q. If there was anything you thought was necessary to
10 document or note, you would put that down and put in your
11 files and turn it in?

12 A. Yes.

13 Q. Okay. How long were you here when you made this
14 observation?

15 A. How long was I at this location?

16 Q. Yes, if you recall.

17 A. I have no recollection at all.

18 Q. And again, from these notes and -- you cannot make
19 any determination of the nature or type of litter that's --
20 that's indicated?

21 A. It appears to be some type of poultry litter.
22 Other than that, I can't tell.

23 Q. And again, you didn't review any nutrient
24 management plan or animal waste management plan that would
25 apply to this field where this -- this litter is located?

Gerard Hummel

April 8, 2009

104

1 A. That's correct.

2 Q. And again, you did not make any report of this
3 incident other than what you noted in -- on the form here,
4 5800?

5 A. The only recollection I have for this is from this
6 form. I may have been back at another time. I'd have to
7 look at all the documentation.

8 Q. And there's nothing improper noted here on 5800?

9 A. I have no opinion on whether it's improper or not.
10 It's just a documentation. It is what it is. I do not
11 know if it's against the law to leave that much litter out
12 in the open without being covered from rain. I understand
13 there's some type of rules about that, but I'm not familiar
14 with all of them.

15 Q. And you don't know how long this litter was there?

16 A. I could not possibly tell you from this form.

17 Q. And if -- if it were raining or there for an
18 extended period of time, would those be notes that would be
19 material to -- to record and document?

20 A. It may be of interest to somebody involved in the
21 case.

22 Q. Would you have made any -- any notes about the
23 time the litter was there or conditions, other conditions
24 if they were material?

25 A. I suspect we may have. It looks like we couldn't

1 possibly know when it was placed there. So I think that
2 would all be just speculation on someone's part.

3 Q. So there's nothing here on this page that would
4 have caused you to make any special note or call attention
5 to this incident to anyone else on the team?

6 A. That's correct.

7 Q. Nothing unusual noted on this form?

8 A. That's correct.

9 MS. HILL: This is 7.

10 (Exhibit No. 7 was marked.)

11 Q. Sir, I'm gonna hand you what I've marked as
12 Exhibit No. 7. Can you take a few minutes to look through
13 this document and let me know when you're finished.

14 A. Okay.

15 Q. Again, from this form we cannot tell whether you
16 returned to this location; is that correct?

17 A. That is correct.

18 Q. And did you observe the tractor that is next to
19 the pile on the second picture in this package, which is
20 OK-PL-0009603?

21 A. Well, whether I looked at it or it was
22 photographed, I do not recall, but it's pretty obvious that
23 it's there.

24 Q. It looks like this is an active operation, doesn't
25 it?

Gerard Hummel

April 8, 2009

106

1 A. It appears to be.

2 Q. Do you know what happened to the materials out in
3 front of this house in Picture 9603?

4 A. I can only speculate. It appears to be some type
5 of spreader device being towed behind the tractor. One
6 could only speculate.

7 Q. There aren't any notes about spreading this
8 material in -- on this form or this observation, are there?

9 A. No.

10 Q. So you don't know what happened to this material
11 out in front of this house?

12 A. No. I'm sure it would be an intriguing story, but
13 no, I don't know.

14 Q. And again, you don't know whether that's a
15 clean-out or a cake-out?

16 A. That is correct.

17 Q. And you've told us before you don't know whether
18 -- you can't distinguish breed houses from grow-out houses;
19 is that correct?

20 A. That's correct.

21 Q. And did you make any observations of any turkeys
22 in any of these houses during this observation?

23 A. I can't recall. There's no notes here. And it's
24 very possible I did see the turkeys and it's possible we
25 didn't, but there's no documentation thereof.

1 Q. All right. Nothing unusual about the observations
2 you make here?

3 A. Well, just assigned -- no, there's nothing
4 unusual.

5 (Mr. Walker entered the deposition.)

6 MS. HILL: We have five minutes on our tape.
7 Let's take a break now and I'm gonna look at my notes and
8 we'll carry on.

9 THE VIDEOGRAPHER: We're off the record at
10 11:37 a.m.

11 (Break was taken from 11:37 a.m. to 11:51 a.m.)

12 THE VIDEOGRAPHER: This is the beginning of
13 Tape No. 4. We are back on the record at 11:51 a.m.

14 Q. (BY MS. HILL) Sir, we've taken several breaks
15 today. Can you tell me about any conversations you've had
16 during those breaks?

17 A. Yeah. We were just downstairs talking about the
18 deposition and we were hoping we could stipulate so we
19 didn't ask the same questions over and over about whether I
20 know about any nutrient management plans.

21 Q. As you've testified, you've not reviewed any
22 nutrient management plans as it relates to any of the
23 specific observations we were looking at?

24 A. Numerous times, yes.

25 Q. All right. Any other discussions about the

1 deposition itself?

2 A. No. Talked about kids and boating and unrelated
3 subjects.

4 (Exhibit No. 8 was marked.)

5 Q. I'm gonna mark for you -- hand to you what the
6 court reporter has marked as Exhibit No. 8. Take a few
7 minutes to take a look at this package of documents. This
8 appears to be an observation of the Wamoth farm on June
9 16th, 2005; is that correct?

10 A. Yes.

11 Q. And confirm for the record, please, who did the
12 actual writing of these notes?

13 A. The name Walton appears. It would be Jack Walton
14 and this is his writing.

15 Q. Okay. Do you have any independent recollection of
16 this observation other than what you read here?

17 A. I do not.

18 Q. Okay.

19 A. It appears, if I remember from the pictures, that
20 this is -- and I may be wrong -- west of the town of
21 Westville, Oklahoma. I kind of remember a location on the
22 south side of whatever the highway is going through there.
23 I recall some type of small subdivision on the east side of
24 the Cargill operation, but I could be wrong. That's what
25 I'm recalling.

1 Q. Do you have any other independent recollection of
2 this farm or its operations?

3 A. No.

4 Q. And all of the notes -- all of your material
5 observations from that day would be noted here on this
6 form?

7 A. Yes.

8 Q. And can you recall how long you observed the
9 operations on June 16th, 2005 at the Wamoth farm?

10 A. I have no other recollection of this.

11 Q. And you don't have any recollection of returning
12 to this farm after June 16th, 2005?

13 A. No. I may have, but I have no independent
14 recollection.

15 Q. And if you had returned to this farm to make
16 another observation, we would find that in your notes; is
17 that correct?

18 A. I believe so, yes.

19 Q. Take a look at the second picture, which is
20 OK-PL-0008941.

21 A. Uh-huh.

22 Q. Can you describe for me what is documented in that
23 picture?

24 A. It appears to be a poultry house. It looks like
25 there's a location on the ground where litter had once been

Gerard Hummel

April 8, 2009

110

1 stored.

2 Q. You didn't do any tests of the material on the
3 ground to determine whether that was litter or any other
4 material, did you?

5 A. I never at any time tested any litter on any
6 ground.

7 Q. And from your observations here, this looks like
8 an active operation?

9 A. It sure does.

10 Q. And it looks like the litter in this area had been
11 removed, from your notes; is that correct?

12 A. It appears to be.

13 Q. All right. Is there anything unusual that you
14 note in this -- this observation?

15 A. I didn't see anything that seemed to be unusual.

16 Q. Nothing improper noted here?

17 A. Whether it's improper or not, I have no expert
18 opinion or not. It looks very normal.

19 Q. Nothing out of the ordinary -- nothing out of the
20 ordinary and nothing unusual?

21 A. That's correct.

22 Q. Let's go back to Exhibit No. 5, if you will,
23 please.

24 A. Okay.

25 Q. We talked about this earlier when we were just

Gerard Hummel

April 8, 2009

111

1 trying to identify the forms that you used for your work.
2 Now we're gonna walk through these pages and ask you a few
3 questions about each page. And I'll represent to you this
4 is a compilation exhibit of notes that we found that you're
5 involved with on -- involving Cargill or Cargill growers.
6 The first page, OK-PL-0002870 appears to be a note from
7 August 17th, 2005; is that correct?

8 A. Yes.

9 Q. And who made the actual recording on this piece of
10 paper?

11 A. Liz Weatherly.

12 Q. All right. And she noted that the structures were
13 in good condition?

14 A. Correct.

15 Q. And nothing unusual or improper noted on this
16 form?

17 A. There doesn't seem to be nothing unusual at all.

18 Q. All right. Let's turn to the next page, which is
19 OK-PL-0002865. This appears to be an observation on August
20 17th, 2005. Can you tell me who recorded this observation?

21 A. Liz Weatherly.

22 Q. Again, she recorded that the structures appear to
23 be in good condition?

24 A. Yes.

25 Q. And it appears that -- did you make a

Gerard Hummel

April 8, 2009

112

1 determination whether this was an active operation?

2 A. Well, from the notes, it must have been since the
3 turkeys were smiling at her.

4 Q. Did you see those turkeys smiling that day?

5 A. Yes. I kind of remember several instances where
6 the poultry and us locked eyes in a longing look at each
7 other.

8 Q. Do you have any other recollection of this
9 observation -- independent recollection of this observation
10 on August 17th, 2005?

11 A. No, I don't.

12 Q. Nothing remarkable about the turkeys you saw that
13 day smiling at you?

14 A. No. If they knew their fate, they probably
15 wouldn't be smiling.

16 Q. And again, nothing unusual or out of the ordinary
17 noted on this form?

18 A. That's correct.

19 Q. Let's go on to the next page, which is
20 OK-PL-0002996. And it appears that this is an observation
21 from August 18th, 2005. Can you tell me, were you involved
22 with this observation?

23 A. Well, I would have been driving the vehicle at the
24 time. Liz wrote. But you can't see it from where we were
25 other than I'm sure she wrote down that it was a Cargill

Gerard Hummel

April 8, 2009

113

1 farm or breeder farm. The signs -- it was not unusual to
2 see a sign such as that. And couldn't see it -- the actual
3 operation.

4 Q. Do you have any independent recollection of this
5 observation?

6 A. No.

7 Q. Do you have any independent knowledge of
8 Honeysuckle No. 1 breeder farm?

9 A. No.

10 Q. And was it the practice to note if you could not
11 observe any activity going on on your forms?

12 A. Yes. This looks like the ground truthing portion
13 since it was in 2005, and -- so --

14 Q. All right. Let's go on to the next page,
15 OK-PL-0001935. Can you tell me what this page refers to?

16 A. It's an observation of a Cargill farm at Waypoint
17 227, wherever that is, and it looks like trucks, silo and
18 buildings, signs, tractor, trailer full of cages, forklift,
19 silos. So I can only assume that the tractor and trailer
20 were either picking up or dropping off poultry at that
21 location or the person kept cages there.

22 Q. You don't have any independent knowledge of what
23 those cages were used for?

24 A. No. They would be from a general -- animals were
25 brought in and left in cages.

Gerard Hummel

April 8, 2009

114

1 Q. You don't know whether those were -- cages were
2 there from a delivery or pickup of birds that day or if
3 they stayed there?

4 A. Without looking at a picture, I don't remember.

5 Q. I'm gonna hand you the pictures associated with
6 that note and take a look and see if any of those refresh
7 your recollection about your observations that day.

8 A. I really don't. It looks like any number of other
9 operations in the area that we saw. I do not recall it.

10 Q. You don't recall seeing any poultry being
11 delivered or picked up from the photographs or the notes on
12 this observation?

13 A. No. The notes appear to recur -- I'm sorry -- to
14 refer to the picture ending, Bates number ending with 9470
15 with a tractor/trailer with empty cages on the back.

16 Q. And sitting here today, that's the extent of your
17 knowledge about --

18 A. Yes.

19 Q. -- the observation on July 15th, 2005?

20 A. Yes.

21 Q. All right. And on the note itself, I'm not gonna
22 mark that, it appears that you noted the structure was in
23 good condition.

24 A. Yes.

25 Q. And who made the actual notes on this page?

Gerard Hummel

April 8, 2009

115

1 A. Jack Walton.

2 Q. All right. From the picture and reading this
3 note, anything unusual about your observation on July 15th,
4 2005?

5 A. No.

6 Q. Let's go to the next page. This is the other form
7 we previously discussed. It's OK-PL-0001928. Can you tell
8 me the date of this observation?

9 A. July 26th of 2005.

10 Q. And who made the notes on this?

11 A. Liz Weatherly.

12 Q. And together, your team noted that this was in
13 good condition?

14 A. Yes.

15 Q. Anything other -- anything else unusual or out of
16 the ordinary noted on this form?

17 A. This does not appear to be anything extraordinary.

18 Q. Do you have any independent recollection of this
19 observation?

20 A. No.

21 Q. So the extent of your knowledge about this
22 observation is contained on this form?

23 A. Yes.

24 Q. Let's turn the page. We are now on OK-PL-0003856.

25 A. Yes.

Gerard Hummel

April 8, 2009

116

1 Q. Can you tell me the date of this operation?

2 A. It looks like September 1st, 2005.

3 Q. And you were involved in this observation?

4 A. Yes.

5 Q. Who made the notes on this observation?

6 A. Liz Weatherly.

7 Q. And again, your team noted that the structures
8 were in good condition?

9 A. Yes.

10 Q. Anything else unusual or out of the ordinary noted
11 about this observation?

12 A. No.

13 Q. Do you have any independent recollection of this
14 farm or the observations you made of that farm?

15 A. No. If I looked at a photo, I might, but I do
16 not.

17 Q. Here are the photos I'll hand you associated with
18 the Carol Wallace operation.

19 A. It doesn't -- doesn't -- I don't recall it.

20 Q. No recollection of the Wallace --

21 A. Correct.

22 Q. -- Carol Wallace farm other than what's contained
23 on this form?

24 A. Correct.

25 Q. Let's keep going. We're getting through this.

Gerard Hummel

April 8, 2009

117

1 Next page is OK-PL-0003862. Tell me the date of this
2 observation.

3 A. September 1st of '05.

4 Q. And you and Ms. Weatherly were a team that day
5 making observations?

6 A. Yes. These are her notes.

7 Q. All right. And your team noted that the
8 structures were in good condition?

9 A. Yes.

10 Q. Anything else unusual or out of the ordinary about
11 your observations of the Fendal farm?

12 A. It does not appear to be. I'm not sure what she
13 means by feathers blowing. But other than that, nothing.

14 Q. You don't have any independent recollection of
15 noting feathers at the Fendal farm on that day?

16 A. That's correct.

17 Q. I'm gonna hand you the picture and see if this
18 reflects -- refreshes your recollection. Do you see any
19 feathers blown?

20 A. No, I don't see any feathers in this picture.

21 Q. And again, the photo you just looked at was
22 OK-PL-0009777.

23 Let's go on to another observation of
24 Mr. Fendal. If we look at 3862, it looks like you made an
25 observation at 16:09 and this looks like an observation of

Gerard Hummel

April 8, 2009

118

1 the same farm just five minutes later; is that correct?

2 A. It appears to be. It looks like a different
3 waypoint. My -- I would only speculate that Mr. Fendal has
4 two different -- at least two different houses at different
5 waypoints.

6 Q. And again, you noted that the structures were in
7 good condition?

8 A. Yes.

9 Q. Anything unusual or out of the ordinary in your
10 observation -- second Fendal observation for September 1st,
11 2005?

12 A. Nothing appears extraordinary.

13 Q. Anything unusual?

14 A. No.

15 Q. Let's go -- do you have any independent
16 recollection of the Fendal farm?

17 A. No.

18 Q. Let's go on to Bates No. OK-PL-0003823.
19 Observation from September 1st, 2005 of the Aday farm. You
20 were involved in this observation; is that correct?

21 A. That's correct.

22 Q. All right. Again, you noted the structures were
23 in good condition?

24 A. Yes.

25 Q. Do you have any independent recollection of the

Gerard Hummel

April 8, 2009

119

1 Aday farm?

2 A. No.

3 Q. Anything unusual noted on -- on your forms?

4 A. None at all.

5 Q. And you don't recall anything else about the Aday
6 farm?

7 A. That's correct.

8 Q. Let's go on to the next page, which is
9 OK-PL-0003835.

10 A. Okay.

11 Q. And this is another observation from September
12 1st, 2005 of a Thomas and T&J Farms. You were involved in
13 this observation; is that correct?

14 A. Yes.

15 Q. Do you have any independent recollection of the
16 Thomas or T&J Farms?

17 A. No.

18 Q. So the extent of your knowledge is what is noted
19 on this form?

20 A. Yes.

21 Q. Anything unusual noted on this form about the
22 Thomas and T&J Farms?

23 A. Nothing at all.

24 Q. I'm sorry. I misread the last form. Those are
25 the T&G Farms noted on OK-PL-0003835.

Gerard Hummel

April 8, 2009

120

1 On to the next page, which is OK-PL-0003345.
2 You were involved in this observation on September 8th,
3 2005?

4 A. Yes.

5 Q. Could you make any observation on that day of this
6 operation?

7 A. I have no independent recollection and I'm unsure
8 what bone or bear or what word she wrote. I'm not sure
9 what that's referring to.

10 Q. I'll show you the picture associated with this
11 observation, which is OK-PL-0009822. And let me know if
12 this refreshes your recollection of this observation in any
13 way.

14 A. It does not.

15 Q. Let's go on. We're on OK-PL-0003357. You were
16 involved in this observation; is that correct?

17 A. Yes.

18 Q. Anything unusual noted about this observation?

19 A. There does not appear to be anything unusual.

20 Q. Do you have any independent recollection of this
21 observation?

22 A. No.

23 Q. We're now on Page OK-PL-0003425. Were you
24 involved in this observation?

25 A. Yes.

Gerard Hummel

April 8, 2009

121

1 Q. Do you recall this observation?

2 A. No.

3 Q. You don't have any independent recollection today
4 of this observation?

5 A. That's correct.

6 Q. And your team noted that this -- this farm or this
7 operation appeared to be active and in good condition?

8 A. Yes.

9 Q. Anything else unusual noted about this operation?

10 A. There does not appear to be anything unusual.

11 Q. We are on Page OK-PL-0003370. Were you involved
12 in this observation?

13 A. Yes.

14 Q. Did you make notes on this observation?

15 A. Jack Walton did.

16 Q. Do you have any knowledge of the Edelman operation
17 or farm?

18 A. I have no independent recollection of this.

19 Q. And your team noted that this appeared to be
20 active and that the structures were in good condition?

21 A. Yes.

22 Q. Anything unusual about your observations of the
23 Edelman farm?

24 A. No.

25 (Exhibit No. 9 was marked.)

Gerard Hummel

April 8, 2009

122

1 Q. I'm gonna hand to you what the court reporter has
2 marked as Exhibit No. 9. And I'll represent to you these
3 are some handwritten notes that we found in -- the first
4 one is OK-PL-0004900. Is this your writing on this form?

5 A. No, it's not.

6 Q. Up in the top right-hand corner, it says Team 4.
7 Can you determine whether you were on Team 4 that day when
8 this note was made?

9 A. No, I cannot. And I don't know if the next page
10 has --

11 Q. The next page is different.

12 A. Okay.

13 Q. So let's stay on this page.

14 A. I have no knowledge of the date or -- I mean, I
15 recognize that as Steve Steele's signature and his
16 handwriting, but I do not know if I was present on this
17 date, whatever date this was taken.

18 Q. Okay. I'll represent to you that in the earlier
19 set of documents your name was shown on the first page as
20 being on Team 4 that day.

21 A. Okay.

22 Q. Do you have any independent recollection of the
23 observation in the middle of the page of the Rutherford
24 Farm?

25 A. No, I do not.

Gerard Hummel

April 8, 2009

123

1 Q. Okay. Did you ever make handwritten notes like
2 this when you were out in the field?

3 A. A few times. Most days I drove and did not, but
4 there were a few days that I did so.

5 Q. And what did you do with those handwritten notes?

6 A. They were all turned in to Lithochimiea through
7 Steve Steele.

8 Q. Let's turn to the next page. This is another
9 handwritten note that I'll represent we found your name
10 associated with earlier in the documents.

11 A. Okay.

12 Q. This one is OK-PL-0005008. Is this your
13 handwriting?

14 A. No, it's not.

15 Q. Okay. The last observation, do you know whose
16 handwriting this is?

17 A. I'm speculating. It looks like Liz Weatherly, but
18 -- it looks like my writing that says video taken. So I'm
19 guessing that this is Liz Weatherly's.

20 Q. Do you have any independent recollection of an
21 observation of a Honeysuckle turkey farm that's noted on
22 the bottom of the form there?

23 A. I have no independent recollection of this.

24 Q. All right. Let's go back to Exhibit No. 3.

25 A. I'm there.

Gerard Hummel

April 8, 2009

124

1 Q. And we discussed -- oh, let's see. I think it's
2 the fifth page in this exhibit, OK-PL-0012764. I believe
3 this is the spreading operation that you did not want to
4 stick around too long to stand out and you took a few
5 pictures.

6 A. Okay.

7 Q. Anything unusual about what you documented on this
8 form?

9 A. There does not appear to be anything unusual.

10 Q. And let's take a look at Exhibit No. 4, if you
11 would, please.

12 A. I'm there.

13 Q. All right. Any -- anything unusual noted about
14 your observations on this form?

15 A. Nothing looks unusual.

16 Q. Do you have any independent recollection of this
17 observation other than the documents here?

18 A. No.

19 Q. Earlier we talked about what happens to materials
20 once they're placed on the ground and whether -- how they
21 might move. And I take it from your answer you're not
22 going to give us any opinions about where these substances
23 may go or how they may be appropriated into soil.

24 A. That's correct.

25 Q. All right. So we're not going to hear from you

Gerard Hummel

April 8, 2009

125

1 any testimony about runoff from these fields; is that
2 correct?

3 A. That is correct.

4 Q. Did you have occasion to observe BMP, Inc.'s
5 trucks in the IRW during your observations?

6 A. BMP, that name does not ring a bell.

7 Q. Do you know what BMP, Inc. is?

8 A. I do not.

9 Q. Have you -- do you have any knowledge of companies
10 or organizations that arrange for litter transport in or
11 out of the Watershed?

12 A. I do not know any arrangements.

13 Q. And you don't know the history of any companies
14 that make arrangements to haul litter in or out of the
15 Watershed?

16 A. That is correct.

17 Q. Or how long those companies have been in existence
18 or the nature of their operation?

19 A. That is correct.

20 Q. And is the same testimony true for any of the
21 litter haulers in the IRW? I asked you specifically about
22 BMP's. But do you have any specific knowledge about the
23 operations of any other litter hauler?

24 A. Just what I observed, people hauling litter. I
25 have no knowledge, business arrangements or how they get

Gerard Hummel

April 8, 2009

126

1 paid or any such. I don't know.

2 Q. So that would be in your notes if you made any
3 observations about litter haulers in or out of the
4 Watershed?

5 A. Correct.

6 Q. And you never talked -- you've already told us you
7 didn't talk to any growers. So you didn't talk to any
8 growers about the disposition or use of their litter in or
9 out of the Watershed?

10 A. That's correct.

11 Q. Did you talk to anyone else about the moving of
12 litter in or out of the Watershed?

13 A. I'm sure we talked a few times, especially when we
14 followed the truck to the Sallisaw area. It seemed unusual
15 they were taking it that far. But other than that, no.

16 Q. You said you talked. You just talked amongst your
17 team?

18 A. Sure. We're driving going man, they're going a
19 long ways.

20 Q. Any discussions with anyone other than your
21 investigative teams about litter hauling practices?

22 A. No.

23 Q. Okay. And you don't know how -- how far these
24 litter haulers go to take litter, do you?

25 A. I do not just from our observations, no.

Gerard Hummel

April 8, 2009

127

1 MS. HILL: Let me take a quick look at my
2 notes. Go off the record for a second and I'll see if I
3 can finish up and pass you on to some of these other
4 attorneys here.

5 THE VIDEOGRAPHER: We're off the record at
6 12:21 p.m.

7 (Break was taken from 12:21 p.m. to 12:24 p.m.)

8 THE VIDEOGRAPHER: We're back on the record
9 at 12:24 p.m.

10 Q. (BY MS. HILL) Going back to Exhibit No. 7, we
11 discussed that earlier with respect to the Circle G farm.
12 I don't believe I asked you whether you noted anything
13 unusual about the observations you made that day on the
14 Circle G farm.

15 A. Nothing appears unusual.

16 MS. HILL: I'm gonna pass the witness. Thank
17 you very much for your time today.

18 THE WITNESS: You betcha.

19 EXAMINATION

20 BY MS. LLOYD:

21 Q. Mr. Hummel, my name is Jennifer Lloyd and I
22 represent one of the defendants in this case. I'm gonna
23 hand you what I'm gonna ask the court reporter to mark as
24 Exhibit 10. It's Bates No. Base OK-PL-0005337.

25 (Exhibit No. 10 was marked.)

Gerard Hummel

April 8, 2009

128

1 THE WITNESS: Thank you.

2 Q. (BY MS. LLOYD) Were you on the team that observed
3 this farm?

4 A. Yes.

5 Q. And who wrote the notes for this?

6 A. Liz Weatherly.

7 Q. Below or under notes, it refers to this farm as a
8 security farm.

9 A. Yes.

10 Q. What is a security farm?

11 A. I don't know. We talked about that several times.
12 I think we came up with the opinion that -- because we
13 noticed many farms said security farm on it and we were
14 wondering if that was to prevent the transfer of disease,
15 if they called in security, not to go into the location,
16 for unauthorized persons to go into the location. That is
17 just my opinion.

18 Q. When you say the farm said security farm, is that
19 there was a sign there?

20 A. Right. There's a number of farms that say
21 security farm.

22 Q. On this note, it says there were dead chickens
23 everywhere. Can you explain that further?

24 A. Yes. I remember this location. I think it's by
25 Stringtown, northeast of Siloam Springs. It's a road

Gerard Hummel

April 8, 2009

129

1 running north and south. I drove by there many times. We
2 opined that perhaps the grower had suddenly died or
3 something and abandoned the area because it just appeared
4 that it was just abandoned and the chickens were just left
5 there and they all died. Because there were a number of
6 just animals just walking around the area. It just appears
7 to have been abandoned all of a sudden and the chickens --
8 it appears that -- I mean, there were just dead chickens
9 literally everywhere lying on the ground, in the barn. The
10 doors were all opened. And it looked like they just walked
11 around until they ran out of something to eat.

12 Q. When you say everywhere, are you referring to the
13 immediate area in or around the barn?

14 A. Yes.

15 Q. So there were not chickens strung across fields?

16 A. No. They were just -- as it says here, the barn
17 doors were open. I remember this very much because there
18 was just dead chickens lying all over the ground.

19 Q. How many chickens would you say?

20 A. I'd have to look at the photos. My recollection
21 was, my, God, 50, 100 chickens. I mean, there were just
22 chickens everywhere. It was dark inside the barn, but
23 there was just dead chickens lying all over the place.

24 Q. You said it was dark inside the barn. Could you
25 see the chickens in the barn?

Gerard Hummel

April 8, 2009

130

1 A. You could see chickens in the barn. I mean,
2 obviously, it's light near the door and as it goes further
3 back where there's no lights, it's darker.

4 Q. Were there any live chickens in there?

5 A. There may have been, but I don't think so. This
6 was right next to the roadway and you could see where we
7 note here that we came back the next day and I remember
8 going by this numerous times. We often wondered what
9 happened. It appeared like all of a sudden it was just
10 abandoned.

11 Q. So you drove by numerous times. You -- you
12 visited this location after 3/16?

13 A. I recollect driving by there again at other times,
14 yes.

15 Q. And did you observe whether the dead chickens were
16 still there?

17 A. They were still there.

18 Q. What -- other than the two days noted on this
19 form, what other days were you at this farm?

20 A. I have no independent recollection of that. I'd
21 have to look at notes.

22 Q. Do you have -- the last time you went by and
23 observed dead chickens, how soon after this 3/16 event was
24 that? Was it within days, weeks, months?

25 A. You know, this has been over three years ago and I

Gerard Hummel

April 8, 2009

131

1 just don't really remember how many times after that I was
2 by there. I remember going by a number of times and it
3 just appeared to be the same way.

4 Q. Did you make notes each time?

5 A. Perhaps. Nothing changed. I don't know if we did
6 or not. But I kind of -- I remember it was the subject of
7 discussion every time we drove by going what happened here.
8 It was just unusual.

9 Q. Do you have a specific recollection of driving
10 past this farm later than March 16th of 2006?

11 A. I know that I did, but I cannot recall when.

12 Q. Do you have any -- have you had any training as to
13 biosecurity operations, regulations or laws?

14 A. No.

15 Q. Did you do any investigation -- any investigation
16 into whether the conditions on this farm were in violation
17 of any biosecurity --

18 A. No.

19 Q. -- regulations?

20 Other than making your notes on this form,
21 did you feel it necessary to notify any state or federal
22 regulatory --

23 A. Agency?

24 Q. -- agencies? Thank you.

25 A. No.

Gerard Hummel

April 8, 2009

132

1 Q. So you're not sufficiently concerned about this
2 situation?

3 A. That's correct.

4 Q. The note mentions there were sheep visible in the
5 area. Did the sheep appear well taken care of?

6 A. I really don't recall. I remember there were
7 sheep walking around among the dead chickens. They didn't
8 appear to be emaciated, as far as my memory serves.

9 Q. Do you have any training or knowledge in regard to
10 chicken catching operations?

11 A. No. I've never caught a chicken before and I
12 haven't had no training in that area.

13 Q. Have you ever seen a chicken catching operation?

14 A. No. I've never seen chickens actively being
15 caught, no.

16 Q. Do you have any knowledge as to the mortality
17 rates of chickens in a flock that is being caught?

18 A. No, I do not.

19 Q. Do you have any knowledge as to whether the
20 situation you saw documented on this form was the result of
21 a chicken catching operation?

22 A. I do not know.

23 Q. And do you have any training as to how long the --
24 after a chicken catching operation, that dead chickens can
25 remain on the floor -- on the ground?

1 A. I do not know.

2 MS. LLOYD: I don't think I have any other
3 questions.

4 MR. FREEMAN: (Inaudible) is good.

5 MR. MIRKES: I've just got a few. Just fling
6 the mic over.

7 EXAMINATION

8 BY MR. MIRKES:

9 Q. First thing I'll do is enter an appearance. I'm
10 Craig Mirkes for Peterson Farms. As I mentioned to you
11 earlier, I was in a -- Mr. Stansill's deposition so I
12 missed the beginning of yours and I hope not to cover any
13 ground and I will certainly keep my questioning limited to
14 do so.

15 Did you ever go out in the Watershed by
16 yourself in any of these investigations?

17 A. There was only one time. I'm sure it was sometime
18 in the fall of 2007. Steve Steele called and asked. There
19 was some farm over by the town of Moseley close to the
20 Arkansas line where he wanted me to check on something. If
21 I remember correctly, it was whether a field had been hayed
22 recently, and I do not recall the purpose. I drove over
23 there and called him. I remember there being some hay on
24 the farm. But other than that, that's the only time that I
25 would have been alone over there.

Gerard Hummel

April 8, 2009

134

1 Q. Was there a report made from that, like an
2 investigation report from that visit?

3 A. No. The -- and again, I wish I could remember
4 more details. There was some specific reason he wanted
5 information on that and I don't remember why. And I went
6 over there and just called him and said here's what I --
7 what I saw, but I don't remember the purpose of it.

8 Q. Where is Moseley?

9 A. If you take 412, it's approximately three or four
10 miles this side of the Arkansas line, west of Siloam
11 Springs. It's -- I'm not even sure you would call it a
12 town. It may have been at one time. I think Moseley now
13 considers a -- consists of a school and maybe a couple
14 acres of land.

15 Q. Is that around -- is that around that driving
16 range west of West Siloam Springs on 412 --

17 A. Yes.

18 Q. -- in that area?

19 A. Yes.

20 Q. Okay. In all the other cases, if I'm correct, and
21 that you -- when you made an observation sheet, you were
22 with somebody else?

23 A. That is correct.

24 Q. To the extent there was an observation written
25 down on those sheets, can I be safe in assuming that you

Gerard Hummel

April 8, 2009

135

1 would agree with the observations that have your name
2 listed as one of the observers?

3 A. I would say that's correct.

4 Q. Even if you didn't do the writing?

5 A. I would agree with that.

6 Q. So that if I do have the opportunity to sit in on
7 -- in this -- in this case, it appears that you were with
8 Weatherly.

9 A. Yes, Liz Weatherly.

10 Q. If I ask Liz Weatherly questions, I would get
11 substantially the same answers that I would get from you?

12 A. I would imagine that's correct, yes.

13 Q. In all of your visits to the Watershed, did you
14 ever visit any Peterson contract grower farms that you
15 recall?

16 A. I remember driving by any number of farms that had
17 a Peterson sign.

18 Q. Did you ever observe any unlawful activity at any
19 of those farms?

20 A. You know, I'm not sure what is unlawful. My
21 understanding of that is what is at dispute in this case is
22 whether certain practices are unlawful or not, and I don't
23 believe I'm qualified to say whether stuff is unlawful or
24 not as far as -- I really have not enough training and/or
25 knowledge of whether spreading activities are unlawful or

Gerard Hummel

April 8, 2009

136

1 not. I'm just not qualified to say so.

2 Q. Are there -- as an officer for the City of Tulsa,
3 you're familiar at least with some criminal laws; is that
4 -- is that accurate?

5 A. Of course.

6 Q. Are there criminal penalties associated with
7 pollution?

8 A. One only has to do a Google search for pollution
9 finds to see that -- I'm sure there's been plenty of times
10 in the past where companies have been found liable for
11 pollution.

12 Q. In your time as a Tulsa police officer, have you
13 ever written a citation for pollution?

14 A. I never have, no.

15 MR. MIRKES: Those are all my questions.
16 Thank you, sir.

17 EXAMINATION

18 BY MR. FREEMAN:

19 Q. Good afternoon, sir. I am Bruce Freeman and I'm
20 here for defendant Simmons Foods. And I have been making
21 little notes as I go along. I'll try to be pretty brisk as
22 we roll through them.

23 Since you graduated from college with your
24 health sciences degree, have you made any effort to keep up
25 with biology and chemistry as a matter of personal interest

Gerard Hummel

April 8, 2009

137

1 or otherwise?

2 A. No. Other than helping my children with their
3 high school and college studies and maybe seeing something
4 on the Discovery Channel or the Hitler channel, whatever
5 they're calling it, no.

6 Q. I know that we don't have you all day today. Are
7 you on duty today?

8 A. Well, I'm using vacation time. I will be going to
9 work when we're done.

10 Q. Okay. I guess my question was, as soon as you get
11 shy of us, are you going on in to work?

12 A. Yes, I've got to go to work.

13 Q. Okay. When you had the initial meeting with
14 Mr. Steele and the other officers that Mr. Garren was at --

15 A. Yes.

16 Q. -- that we talked about earlier, did anyone tell
17 you at that meeting that spreading poultry litter was any
18 kind of a crime?

19 A. I don't recall that, no.

20 Q. Or that you guys should be on the lookout for any
21 kind of crime?

22 A. No. I mean, the essence of the meeting was to --
23 I mean, all of us were ignorant as far as I know as to the
24 spreading of poultry litter. And pretty much the purpose
25 of the meeting, they were wanting us to gather information

Gerard Hummel

April 8, 2009

138

1 on that activity. I had never before seen a, you know,
2 litter spreader or had any knowledge thereof.

3 Q. How did you schedule your visits to the Watershed?
4 Was this like nights and weekends kind of --

5 A. No. It was done during the week and Steve Steele
6 did all the scheduling.

7 Q. So whenever you weren't on duty, then that would
8 be time you had available to go do this?

9 A. Well, typically, I'd have to take a vacation day.

10 Q. So you'd use a vacation day to go --

11 A. Sure, sure.

12 Q. I was trying to figure out how it worked
13 physically.

14 A. I mean, some people had days off in the middle of
15 the week, so they would be on their day off. Nobody worked
16 on duty.

17 Q. And you said you-all got maps and packets that had
18 kind of to-do lists or here's what we're doing now.

19 A. Yes, sir.

20 Q. Okay. And was that from the Lithochimiea folks,
21 as you understood it?

22 A. That's my understanding is that's where that came
23 from, yes.

24 Q. Did the packets you received give you any
25 indication that the farm you were gonna visit on that day

Gerard Hummel

April 8, 2009

139

1 was due for a clean-out or for litter to be removed and
2 spread from it?

3 A. I don't believe we had any foreknowledge about
4 what farms were going to be cleaned out on any certain day.

5 Q. Okay. Was it more like go to these farms and
6 observe these and see what happens?

7 A. I'd say that's a fair observation, yes.

8 Q. You had said that you had subpoenaed a company
9 that provided wood shavings.

10 A. Yes. There was a subpoena served on -- I believe
11 it was Traylor Shavings, T-A-R -- T-R-A-Y-L-O-R.

12 Q. Is that in Oklahoma or Texas or Arkansas?

13 A. It's in Arkansas.

14 Q. Arkansas. Okay. Are you a licensed process
15 server in Arkansas?

16 A. No, I'm not. My understanding is that the
17 attorneys and/or Attorney General had researched the matter
18 and asked us to serve the subpoenas and that it was legal.

19 Q. Okay. Was that like in civilian clothes?

20 A. Oh, sure.

21 Q. Okay.

22 A. Never -- none of us ever wore -- ever wore police
23 uniforms or drove police vehicles.

24 Q. I'm gonna ask you about some of the airplane
25 stuff. It may be easier doing that if we use a little

Gerard Hummel

April 8, 2009

140

1 exhibit --

2 A. Sure.

3 Q. -- but I'm gonna circle around that. It may just
4 be easier.

5 Do you know why people would be spreading
6 chicken litter on fields?

7 A. Well, to -- I would imagine there's several
8 functions. One would be to provide some fertilizer.
9 Another reason would be to -- they've got to do something
10 with it after it's cleaned out of the house. So I imagine
11 that those were the two different functions.

12 Q. Do you know, sir, if companies that spread litter
13 in Oklahoma are in any way licensed by the State to do
14 that?

15 A. I've heard of that, but I am unfamiliar with any
16 of the licensing processes or requirements.

17 Q. When did your work on the project end, as best you
18 can recall?

19 A. Fall of 2007, I believe, was the last time I was
20 over there.

21 Q. Have you had any occasion to review your field
22 notes recently?

23 A. Other than today, no.

24 Q. Okay. So you turned them in and that was that?

25 A. Today was the first time I've seen any of these

Gerard Hummel

April 8, 2009

141

1 notes since they were taken.

2 Q. Okay. Let me ask you about that first meeting
3 there that Mr. Fisher held with everybody. How long did
4 that last?

5 A. I'm just going off memory, half hour, 45 minutes,
6 perhaps.

7 Q. Did y'all have any team meetings as a group, aside
8 from the getting together for breakfast before heading out
9 for the day? Generally, is that what form they took?

10 A. Yeah, that was it.

11 Q. Okay. Okay. And a lot of the exhibits I've seen
12 this morning, they'll have, like, two names by the
13 observers. Did you guys generally go out in two-person
14 teams?

15 A. Yes.

16 Q. Is that how it was set up? And one person would
17 drive and the other person would do more of the
18 photographing or whatever?

19 A. Sure, sure. Just --

20 Q. You had mentioned checking out some kind of GPS
21 gear. Is there anything else you-all checked out by way of
22 equipment?

23 A. The equipment provided was these forms, a GPS
24 device, camera, video recorders. Other than that, nothing.

25 Q. When you'd go out to look at a farm, how close

Gerard Hummel

April 8, 2009

142

1 would you try to get to make your observations?

2 A. Well, typically, you'd want to be as close as
3 where you could be as long as you were on the public
4 roadway.

5 Q. Did you-all ever leave the public roadway and go
6 on to a farm itself to take pictures or whatever?

7 A. Inadvertently did a few times where it was
8 unclear. I don't know how familiar you are with the area,
9 but it's very easy to try to -- is this a driveway or a
10 county road because it's -- typically, you're on gravel
11 and/or dirt roads. And whenever -- I can only speak for
12 myself. Whenever I realized I was not on a public roadway,
13 I would back up and get out of the way. Because our
14 instructions were to stay on public roadways.

15 Q. Did anybody ever come out from a farm to you-all's
16 vehicle to talk to y'all and see what you were doing?

17 A. There were several times where various people
18 tried to either block us in, follow us and/or yell or
19 scream at us and I understand that.

20 Q. Well, let me ask you. Let me break that down just
21 so I can follow it better. How many times did somebody try
22 to block you in?

23 A. Three times.

24 Q. Okay. Just so we're on the same page, what do you
25 mean by blocking you in?

Gerard Hummel

April 8, 2009

143

1 A. Position their vehicle so that you cannot -- so
2 you cannot move.

3 Q. Was this on a public road?

4 A. Yes.

5 Q. Okay. Do you know if the people who were trying
6 to block you in were, like, spreader or farm owners or just
7 general --

8 A. I would only speculate.

9 Q. Okay. What did y'all do when somebody tried to
10 block you in?

11 A. Just tried to leave and not talk to them.

12 Q. And you said someone tried to follow you. How
13 many times did that happen?

14 A. Oh, Lord, many, many, many times, many times.

15 Q. Okay. And what would y'all do when somebody tried
16 to follow you?

17 A. Tried to allude them.

18 Q. This is going to sound kind of dumb, but -- how
19 would you allude somebody?

20 A. Try to trim off the road, speed up, turn around.

21 Q. And did you successfully allude people?

22 A. For the most part, yes.

23 Q. Okay. Did anybody ever follow you to where
24 you-all stopped and come out and confront you?

25 A. Yes. That happened twice.

Gerard Hummel

April 8, 2009

144

1 Q. Okay. And who was confronting you?

2 A. I do not know their identities.

3 Q. All right. What kind of stuff did they say to
4 you?

5 A. It was a lot of profane language, screaming and
6 yelling. After awhile, they realized what we were doing.
7 And, you know, I understand people feel threatened when
8 they believe someone is trying to take away their
9 livelihood. I think it's a natural reaction.

10 Q. When people would -- I mean, a guess couple times
11 you said people successfully followed you-all to your end
12 point. What, if anything, did you say to them?

13 A. Nothing. We tried to just disengage from the
14 situation and leave.

15 Q. Okay. And you said people yelled or screamed at
16 you from time to time. How many times did that happen?

17 A. Several. My best answer is several times.

18 Q. Okay. Would that be like people from fields or
19 vehicles or farms? I'd just like to get an idea of what's
20 going on.

21 A. Well, the spreaders, the people who were
22 spreading, and there were farm owners would -- you know, we
23 all were using our personal vehicles and none of us have a
24 fleet of vehicles, so -- my truck's pretty distinctive and
25 I think they came to know my truck.

Gerard Hummel

April 8, 2009

145

1 Q. When you were tasked to go visit a farm, how long
2 would you wait there to see if anything was gonna happen,
3 like, you know, someone's taking litter or any activity
4 besides, you know, there being chickens there?

5 A. Excuse me. It would really depend on the
6 circumstance, sir. I mean, if someone was actively
7 removing litter and spreading it on the location, you
8 generally want to find out how much, for what period of
9 time and what location it's being spread. And if there's
10 nothing going on there other than chickens being raised,
11 there would be no reason to stay in that location and wait
12 for something to happen.

13 Q. So if there was no real activity after you-all had
14 made the basic observations about the place that we see
15 recorded on the forms, that you'd go on to the next one?

16 A. Sure.

17 Q. Okay. And did you ever ride in an airplane as
18 part of the project?

19 A. Yes.

20 Q. Are you a pilot?

21 A. No.

22 Q. So someone else flew the airplane?

23 A. Yes. Thank, God.

24 Q. Who flew the airplane?

25 A. Danny Lynchard.

Gerard Hummel

April 8, 2009

146

1 Q. What kind of things did you do when you're in the
2 airplane?

3 A. Pretty much the same as on the ground. It's just
4 observe and report the spreading of litter.

5 Q. Did you have, like, a video camera or still
6 camera, something like that from the airplane?

7 A. Both.

8 Q. So would you fly around looking for activity and
9 then if there was activity, you'd go closer to take
10 pictures?

11 A. Yes. That's generally -- generally true. Or
12 someone on the ground would see something and make contact
13 and say look out in this area. And also there was areas
14 that were not visible from the ground that we needed to get
15 a look at from above.

16 Q. You know, you raised something I probably ought to
17 ask about. Were the teams in radio contact with one
18 another while you were out looking at farms and things?

19 A. No. Except if you want to consider cell phones
20 radios.

21 Q. How about with the airplane?

22 A. We tried radios with the airplane. That did not
23 work very well. So we just used cell phones and/or text
24 messaging if contact was necessary.

25 Q. So would the airplane generally be up while

Gerard Hummel

April 8, 2009

147

1 you-all were out in the field so you could direct it to go
2 look at certain places?

3 A. It would just depend. I mean, I don't think --
4 the aircraft wasn't used maybe more than three or four
5 times at the very most. And I think it was in response to
6 several areas that we wanted to look at because you
7 couldn't see from the ground.

8 Q. Okay. Is the pilot someone that you knew already?

9 A. Yes.

10 Q. Okay. Is he, like, a police pilot?

11 A. No.

12 Q. Or something else?

13 A. Mr. Lynchard is the police chaplain and he just
14 happens to be a pilot.

15 Q. Were you-all instructed to photograph any signs
16 out in front of farms or whatever?

17 A. Yes.

18 Q. Did anybody tell you how come?

19 A. Well, they didn't say how come, but I assume that
20 the -- using some common sense, that if we're gathering
21 evidence, we need to find out who or which company is
22 associated with which farms.

23 Q. Did you-all generally stay in your vehicle while
24 you were doing the observations or would you get out and
25 walk around to get a better look at things?

Gerard Hummel

April 8, 2009

148

1 A. There was very few times due to the height of my
2 vehicle that I couldn't see from inside the vehicle.

3 Q. You've got a big, high up truck?

4 A. I mean, it's not lifted any higher than factory,
5 but yes, it's a tall truck.

6 Q. So any of the pictures we were looking at earlier
7 in the deposition, they'd be taken, as far as you could
8 tell, like from a public road?

9 A. Yes.

10 Q. And not from going onto the farm itself?

11 A. Correct. Our instructions were to stay on the
12 public roadways.

13 Q. Do you know, sir, if the State is gonna pay you
14 for any of your time to appear today or if you're just
15 stuck with the witness fee?

16 A. My belief is that I'm probably just stuck with the
17 witness fee. I haven't calculated the hourly rate yet, so
18 I'll do that when I leave and see how bad I'm getting
19 screwed.

20 Q. I'm trying to be brisk here.

21 A. I understand.

22 Q. Let me take just a couple more minutes. I hate to
23 do this, but I feel kind of like I've gotta.

24 A. I understand.

25 (Exhibit No. 11 was marked.)

Gerard Hummel

April 8, 2009

149

1 Q. This will be Exhibit 11. Anybody else who wants
2 one, I've got a pile of them. It's not very exciting.

3 Sir, our court reporter has handed you what
4 we've marked as Exhibit 11. And I'll represent to you what
5 this is is a collection of these notes that we found that
6 have the word Simmons in them --

7 A. Okay.

8 Q. -- or appear to relate to Simmons.

9 A. I figured as much since you said you were with
10 Simmons.

11 Q. Yeah. Nothing against anybody else. But since
12 I'm from Simmons --

13 A. No. That's --

14 Q. -- you know, we put together a Simmons collection.

15 A. You're supposed to be their advocate so I imagine
16 that's what you're supposed to be doing.

17 Q. Now, your name doesn't appear on all of these
18 sheets.

19 A. Uh-huh.

20 Q. There are few. It looks mainly near the back
21 where you're listed as an observer. And -- so feel free to
22 ignore the ones that you're not on.

23 A. Sure.

24 Q. Because I don't expect you to know about any of
25 those other ones. The first one I see in the pile that

Gerard Hummel

April 8, 2009

150

1 your name appears on has 2706 down at the bottom, those
2 little Bates numbers we use to keep track of what page is
3 what.

4 A. Okay. Just a second.

5 Q. Sure.

6 A. All right. I'm there.

7 Q. Okay. And I want to draw your attention to it
8 because under observers, it says Steele and Hummel, air,
9 and then Hummel, Nance, ground.

10 A. Uh-huh.

11 Q. And first let me ask you, is any of that your
12 handwriting?

13 A. No. This is Steve Steele's writing.

14 Q. Okay. So would this reflect that at some point
15 you were in the airplane?

16 A. I'm sure it did. It seems kind of confusing
17 saying that I'm both on the ground and in the air.

18 Q. Well, I was gonna ask you that.

19 A. But there may have been a time where Steve was up
20 there and then later I was or vice versa. I'd just have to
21 look at the pictures to see exactly which it was.

22 Q. And there's some little bracket there and it's
23 got, like, Team 1 and Team 2. Is that the system you-all
24 used to designate who did what on the form?

25 A. Yeah. That was kind of -- you know, it really

Gerard Hummel

April 8, 2009

151

1 just depended for the day and for the notes. I mean, the
2 teams change throughout the -- throughout the period.

3 Q. Okay. This is a question you'll be familiar with
4 earlier in the day. Is there anything about this page that
5 refreshes your recollection so you've got an independent
6 memory of these events or is what you know just what's on
7 the form?

8 A. Man, without looking at pictures, especially since
9 this was over two years ago -- I mean, I remember seeing
10 stuff from the air, but I really -- I really have no
11 independent recollection of this at the moment.

12 Q. Where did you guys base the airplane at? Would it
13 fly over from Tulsa or somewhere closer to that area?

14 A. Typically, my recollection is that Mr. Lynchard
15 would rent or get an airplane in Tulsa and fly over to
16 Siloam and meet us at the airport over there.

17 Q. Okay. Looking at the last few sheets where your
18 name appears on them, see if it's worth asking about in any
19 kind of detail. Are there really a lot of farms that stand
20 out or spreading activities that stand out in your mind now
21 years after the fact or do you mainly just kind of know
22 what you wrote at the time on these sheets?

23 A. I guess what would stand out in my mind would be
24 the really, really, really large operations. A lot of
25 those over by the Westville area, both in Arkansas and in

Gerard Hummel

April 8, 2009

152

1 Oklahoma, the ones that have, you know, 9, 10, 15 houses.
2 There's an unbelievable amount of activity going on.

3 Q. Okay. And of course, from a purely selfish
4 standpoint, I'm curious whether there was anything, you
5 know, related to one of the Simmons grower farms that
6 stands out in your mind that you remember as we sit here?

7 A. I -- I really don't have any extraordinary memory
8 of anything having to do with Simmons or any one grower
9 more than another.

10 MR. FREEMAN: I think that's all I have and
11 I'll pass you on to anyone else who still wants to ask you
12 questions.

13 MR. WOMACK: I have no questions.

14 MR. FREEMAN: We probably ought to talk about
15 reading and signing.

16 MS. HILL: Yes. I'm sure you know that you
17 have the right to --

18 THE WITNESS: Of course.

19 MS. HILL: -- read and sign or waive that.

20 THE WITNESS: Uh-huh.

21 MS. HILL: Would you like to read and sign or
22 waive the signature?

23 THE WITNESS: I'll waive. There's nothing
24 today that I -- any controversy about whatsoever, and -- so
25 I'll be glad to waive that, unless someone -- unless

Gerard Hummel

April 8, 2009

153

1 Counsel thinks I should read it.

2 MR. WOMACK: Whatever you feel comfortable
3 with.

4 THE WITNESS: I'm comfortable with waiving.

5 THE VIDEOGRAPHER: We're off the record at
6 12:59 p.m.

7 (End of proceedings at 12:59 p.m.)
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Gerard Hummel

April 8, 2009

154

1 STATE OF OKLAHOMA)

2 I, Lisa Smith, a Certified Shorthand Reporter in and
3 for the State of Oklahoma, do hereby certify that, pursuant
4 to the agreement hereinbefore set forth, there came before
5 me on the 8th day of April, A.D., 2009, at 8:30 a.m., in
6 the offices of Rhodes, Hieronymus, Jones, Tucker & Gable,
7 PLLC, located at 100 West Fifth Street, Suite 400, in the
8 City of Tulsa, State of Oklahoma, the following named
9 person, to wit: GERARD HUMMEL, who was by me duly
10 cautioned and sworn to testify the truth, the whole truth
11 and nothing but the truth, of his knowledge touching and
12 concerning the matters in controversy in this cause; and
13 that he was thereupon carefully examined upon his oath, and
14 his examination was reduced to writing under my
15 supervision; that the deposition is a true record of the
16 testimony given by the witness; signature of the witness
17 being waived pursuant to agreement of the parties; and that
18 the amount of time used by each party at the deposition is
19 as follows:

20 Ms. Hill - 03 hours, 13 minutes,

21 Mr. Dolan - 00 hours, 00 minutes,

22 Ms. Lloyd - 00 hours, 09 minutes,

23 Mr. Chadick - 00 hours, 00 minutes,

24 Mr. Mirkes - 00 hours, 04 minutes,

25 Mr. Freeman - 00 hours, 22 minutes,

1 Mr. Womack - 00 hours, 00 minutes.

2 I further certify that I am neither attorney or
3 counsel for, nor related to or employed by, any of the
4 parties to the action in which this deposition is taken,
5 and further that I am not a relative or employee of any
6 attorney or counsel employed by the parties hereto, or
7 financially interested in the action.

8 I further certify that, before completion of the
9 deposition, the Deponent _____, and/or the
10 Plaintiff/Defendant _____, did _____ did not _____ request
11 to review the transcript.

12 In witness whereof, I have hereunto set my hand and
13 affixed my seal this 20th day of April, A.D., 2009.



15 Lisa Smith

LISA SMITH, OK CSR 01778

Expiration Date: 12/31/2009

Esquire Deposition Solutions

Firm Registration No. 286

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